THE FEDERAL GOVERNMENT

BY

SIR JOSEPH POPE

K.C.M.G.

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CANADA AND ITS PROVINCES

A HISTORY OF THE CANADIAN PEOPLE
AND THEIR INSTITUTIONS
BY ONE HUNDRED ASSOCIATES

EDITED BY

ADAM SHORTT AND A. G. DOUGHTY

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THE FEDERAL GOVERNMENT

IT is proposed in the following pages to set forth the system on which the government of Canada is organized; to describe this system in its actual operation; to inquire into the nature and source of the authority by which the Dominion is ruled; to ascertain by whom, under what conditions, and subject to what limitations, this authority is administered; to understand the relations in which the two great councils of the nation—the executive and the legislative—stand towards the crown and each other; to visit the various departments of state, and to see how the business of the country is carried on from day to day.

The preamble of the British North America Act, 1867, proclaims the desire of the provinces of Canada, Nova Scotia and New Brunswick to be federally united into one Dominion under the crown of Great Britain, with a constitution similar in principle to that of the United Kingdom; and in accordance with this intention the 9th section declares that the executive government and authority of and over Canada shall continue to be vested in the sovereign of Great Britain and Ireland. The king therefore is the supreme ruler of the Dominion, but, inasmuch as His Majesty is unable to be actually present in Canada, he is represented in the person of his deputy—an officer styled the governor-general—to whom is delegated the royal authority.

In view of the dignity and importance of his great office, it is fitting to begin this review by a description of the mode of appointment of the governor-general; to define with some degree of particularity his powers and functions, and to make clear his part in the actual working of the machinery of government.

The Governor-General

The governor-general of Canada is appointed by the king on the advice of the secretary of state for the Colonies, by letters patent under the great seal of the United Kingdom. Prior to 1878 it was the practice to issue new letters patent to each governor-general on appointment, but in that year letters patent were issued, making permanent provision for the office, and ordaining that all future incumbents should be appointed by special commission under the royal sign manual and signet. Accompanying the general letters patent, and bearing even date therewith, are instructions for the governor's guidance in the execution of the high trust committed to his charge. In 1905 the general letters patent and instructions issued in 1878 were revoked, and fresh instruments of the same tenor were substituted therefor, the change apparently being deemed necessary by reason of the addition to the governor-general's style and titles of the phrase 'Commander-in-Chief of the Dominion of Canada.' The letters patent and royal instructions, read in conjunction with the British North America Act, set forth the powers of the governor-general, who, it is important to remember, is not clothed with the plenary authority of the sovereign. He is not a viceroy, and can exercise only such functions as appertain to his office by law, or are delegated to him, either expressly or impliedly, by the king. Among these are the power of appointing to office all public functionaries, and of suspending or removing therefrom such as hold their positions during the pleasure of the crown; of summoning, proroguing and dissolving parliament; of exercising the prerogative of mercy by the grant of pardons or reprieves, and generally of doing all things necessary to the proper administration of his office. In the exercise of these functions he is guided by the advice of responsible ministers, who in turn must possess the confidence of the House of Commons. The doctrine of ministerial responsibility, which has now reached its full development, was of gradual growth in Canada. Thus, it is only within com-

paratively recent years that the exercise of the pardoning power has been withdrawn from the individual discretion of the representative of the crown. Before 1878, while the governor-general was required (in capital cases) to consult his ministers in respect of all applications for clemency, he was not bound to follow their advice. On the contrary, he was enjoined to decide each case according to his own judgment, whether his advisers concurred or otherwise, and to act on his personal responsibility as an imperial officer. In 1878, largely through the instrumentality of Edward Blake, at that time minister of Justice in the Mackenzie cabinet, a change in this procedure was determined upon, and the royal instructions issued to the Marquis of Lorne in 1878 directed the governor-general not to pardon any criminal offender without first receiving, in capital cases, the advice of his council, and, in other cases, the advice of one, at least, of his ministers.

The prerogative of the crown as the fountain of honour, unless specially delegated, does not appertain to the governor-general. His Excellency, in his quality of an imperial officer, from time to time makes recommendations touching the bestowal of honours to the secretary of state for the Colonies, who, if he sees fit, submits them to His Majesty with his own advice. It is highly probable that as a general rule, before making such recommendations, the governor-general consults his chief adviser, and it is equally probable that the prime minister's wishes, both positive and negative, in regard to the bestowal of honours upon Canadians resident in the Dominion, possess much weight, in turn, with the governor-general, the secretary of state and the sovereign; but constitutionally, the responsibility for advice tendered in such matters rests with His Majesty's government. With this exception, and saving rare occasions in which imperial considerations are distinguished from exclusively Canadian interests, the governor-general acts only on the advice of his ministers, who are responsible for every act of the crown in relation to the public affairs of the Dominion, and to whom, so long as they are sustained by parliament, he is called upon to extend his unreserved confidence and loyal support.

While the governor-general's commission gives to him the title of commander-in-chief, and enjoins all military officers to obey him, he is not thereby personally invested with any military command, which is exercised by the governor in council, to whom, under parliament, belongs the direction and control of the armed forces of the Dominion.

The impression prevails in some quarters that under the practical working of the Canadian constitutional system the governor-general has ceased to be a living factor in the government of the country, that the office, while retaining its ceremonial attributes and social prestige, and valuable as the visible link connecting Canada with the motherland, no longer serves any useful functions that might not—to use a favourite expression of the late Professor Goldwin Smith—be equally well performed by a rubber stamp. This is a misapprehension. The governor-general, while bound to take the advice of his responsible ministers upon all questions appertaining to the government of Canada, whether it is or is not in accordance with his own opinion, possesses in a variety of ways opportunities for modifying that advice in cases in which he may consider its acceptance contrary to law or injurious to the public interest. His elevated position as the king's representative; his aloofness from the prejudices and passions of party strife; and in many instances his wider knowledge and experience of men and affairs, acquired by mingling in the larger sphere of imperial statesmanship:—all these considerations combine to render his influence upon the policy of his ministers far from negligible.

While, as has been said, the governor-general should, in all ordinary matters of administration, defer to the views of his advisers, he should do so in an intelligent manner. He is called upon to see that the authority of the crown is not used in regard to any act of government without his express sanction. It is equally his duty to examine the reports of the Privy Council submitted for his approval—to call for the fullest information, and, if necessary, explanations, in regard to all matters treated of therein. He can refer back to his ministers for reconsideration any recommendations

made to him, and, by suggestion, exhortation and remonstrance, seek to prevail upon them to modify or abandon a policy of which he may be unable to approve. Should they persist in their advice, the governor-general, as a last resource, can demand the resignation of his ministers, or dismiss them from office, and call to his councils a new administration. Such an extreme step, however, as the dismissal of a ministry appears in Canada to be reserved to lieutenant-governors. No governor-general has ever resorted to it. When differences arise between a governor-general and his cabinet with respect to a question of public policy, it sometimes happens that fuller inquiry enables the governor-general to overcome his objections to the suggested course, or, it may be, that his representations successfully appeal to his ministers and induce them to modify or withdraw their proposals.

One would naturally be disposed to surmise that disinterested and friendly co-operation of the character indicated, on the part of a prudent and tactful governor-general, could scarcely fail to prove of distinct mutual advantage, at once to the representatives of the crown and to his advisers; and so indeed it has proved. Thus Lord Lansdowne, in his letter of farewell to Sir John Macdonald, observes: 'I have often made the reflection that the position of a Governor-General in this country is one that might be very agreeable or almost unendurable, according as his relations with his Prime Minister were or were not friendly, frank and characterized by complete trust on each side'; and several of the prime ministers of Canada have publicly acknowledged the benefits they derived from association with various governors-general whom they served, and to whose wise and prudent counsels they have declared themselves much indebted.

A governor-general is appointed during pleasure, but in the absence of any specific provision in that regard his tenure of office is limited to six years. The Colonial Office regulations are quite clear upon this point. Notwithstanding this, the practice has been, at any rate up to a comparatively recent period, to consider the term as one of five years, and any extension beyond that period as a matter of arrangement

between the secretary of state for the Colonies and the incumbent of the office.

The governor-general is empowered to appoint from time to time a deputy or deputies to act for him in the exercise of his powers. This he generally does before visiting remote portions of the Dominion, in order that public business may not suffer by reason of his absence from the seat of government. The choice is his own. As a matter of fact it generally falls on the chief justice of Canada, or failing the chief justice, on the senior available judge of the Supreme Court. Such appointment may be limited to the performance of a single official act, such as giving the royal assent to a bill, or the prorogation of parliament; or the commission may be general in its terms and may operate during pleasure. The power to dissolve the House of Commons is not usually delegated by a governor-general.

In the event of the death, incapacity, removal or absence from the country of the governor-general, it is provided in the letters patent constituting the office that his powers and functions shall, pending any appointment by the king, become vested in the chief justice of Canada for the time being, or, failing him, in the senior judge of the Supreme Court, who, upon taking the prescribed oath, becomes the administrator of the government, and is clothed with all the attributes of the office during the absence or incapacity of the governor-general.

The opinion is sometimes expressed by persons without much practical acquaintance with the conduct of public affairs, that it would more comport with the dignity and growing importance of the Dominion that a Canadian should be selected to represent His Majesty in the office of governor-general. This view is not shared by those best qualified to judge. In 1910, in his farewell eulogy of Lord Grey, Sir Wilfrid Laurier declared this feeling to be 'a laudable, but to my mind a misguided expression of national pride.' He added that the system of appointing imperial statesmen to the office, which had been in operation since Confederation, has worked well, and that any change in that system 'would not, I am sure, be productive of good results, but perhaps on

the contrary would jeopardize something which we hold dear.' [1]

The appointment of a governor-general is usually announced some months before he actually assumes office. At a convenient date he sails for Canada. He is met on landing by the administrator of the government—the retiring governor-general, as a rule, having left the Dominion before the arrival of his successor—the prime minister and the other members of the cabinet. His Excellency's commission is then publicly read. He takes the oath of office and receives the great seal of Canada from the secretary of ate, to whose hands he immediately returns it. He then signs the proclamation announcing his assumption of office, and the ceremony is over.

The Governor-General's Secretary

In former times the governor-general of Canada had two official secretaries, a civil and a military secretary. To the civil office only was a salary attached. Up to the year 1860 the civil secretary held from the imperial government a commission as superintendent-general of Indian Affairs. Since about the year 1870 the two secretaryships have usually been united in the person of a military officer, appointed military secretary by the governor-general personally, and gazetted to the civil office as well, under the title of 'Secretary and Military Secretary to his Excellency the Governor-General.' Occasionally, however, the governor-general's secretary is a civilian, and there is no military secretary.

The duties of the military secretary are purely ceremonial, and call for no extended notice here. In his quality of civil secretary he is the head of the office which deals with the governor-general's official correspondence. Original dispatches are received, entered and docketed in this office, and previous to the establishment of the department of External Affairs were distributed to the Privy Council office, or to the departments direct, as the case might be. The replies of the government in the form of minutes of the Privy

[1] Debates, House of Commons, May 3, 1910.

Council, or reports direct from individual ministers, were sent to the governor-general's office, whence they were forwarded to their destination under cover of dispatches prepared in the governor-general's office, and signed by His Excellency. Now, everything that the governor-general desires to refer to his ministers is sent direct by the governor-general's secretary to the secretary of state for External Affairs, who makes the distribution, and reports direct to the governor-general, or to the governor-general in council, as the case may be, for every department of government. Otherwise the procedure is unchanged. The government of Canada continues to communicate with the secretary of state for the Colonies, His Majesty's ambassador at Washington, and elsewhere outside Canada, through the governor-general's office, precisely as before.

The staff of the office of the governor-general's secretary, as regards appointment, promotion, etc., is under the control of the prime minister. The governor-general's private secretary, though generally holding a clerkship in the office of the governor-general's secretary, performs services altogether of a confidential and personal nature.

The Privy Council

Having described the functions of the governor-general, in whom is vested the supreme executive authority, it is now proper to consider the mode in which his powers are exercised in the administration of the affairs of the Dominion. The British North America Act provides that there shall be a council to aid and advise the governor-general, which shall be styled the King's Privy Council for Canada. The members of this council are appointed by the governor-general on the advice of his ministers, and may be removed by the same authority. Otherwise their tenure of office is for life. 'Once a Privy Councillor always a Privy Councillor' is substantially true. George III struck Charles James Fox's name from the roll of his Privy Council, and a few similar cases are recorded in the long course of English history, but, so far, none in Canada. A privy councillor takes a special oath of secrecy

and signs the council-roll in the presence of the governor-general. He receives no commission or other evidence of appointment, nor does any emolument attach to the office. The position, nevertheless, carries with it a high place in the social and official world, and is a distinction rarely bestowed on any public man other than as a necessary qualification for cabinet office. Members of the Privy Council are entitled to be styled 'Honourable,' and this for life.

The membership of the Privy Council is not limited in number. In 1912 there were sixty-nine privy councillors. Of these eighteen were in the cabinet; forty-two had held cabinet office, but were not in the ministry; eight, although never holding cabinet office, had been speakers of the Senate or of the House of Commons. The remaining member was Lord Strathcona and Mount Royal.

The Canadian Privy Council, as distinct from the cabinet, has never been called together. A fitting occasion for such an interesting ceremony would have been the death of Queen Victoria, or, again, that of King Edward VII, when the whole council might have been summoned to join with the governor-general in proclaiming the new sovereign. Such an unusual proceeding would have been eminently constitutional and proper, and would have established a precedent to be followed by future generations. Advantage, however, was not taken of the opportunity.

In theory the Privy Council is the body upon whose advice the government of the country is carried on, but it has been superseded in practice by the cabinet, to which have passed the advisory and consultative functions which in times gone by were exercised by it.

The Parliament

The parliament of Canada consists of the king, represented by the governor-general, the Senate and the House of Commons, the concurrence of all three branches being necessary to the enactment of every law. Technically each branch is equally free to give or withhold its assent at pleasure. Here, however, as in many other instances, a wide divergence

has grown up between the theory and the practice of the constitution. The crown has long ceased to use the prerogative of veto, and while the upper house may, and does on rare occasions, assert its right of rejecting a government measure sent up from the House of Commons, it employs such discretion in so doing that its action commonly has no effect upon the ministry other than that of subjecting it, perhaps, to temporary inconvenience and annoyance. On the other hand, the House of Commons, by requiring the governor-general's powers to be exercised through ministers responsible to it, has become in reality, if not in form, the source and centre of legislative authority.

No more ingenious and effective scheme for the conduct of public affairs has been devised by the wit of man than that known as 'Responsible Government,' under which the balance of the old-time contending elements in the state is harmoniously adjusted without doing violence to cherished convictions. The crown maintains unimpaired its ancient dignities and splendour, and rests far more securely upon the affections of the people than at any previous time in history; while the controlling power of government has passed to the people's representatives in the House of Commons. As a constitutional writer has well observed: 'Such is the wonderful elasticity and adaptability of our system of government, that modern life has taken possession of the ancient form and has not rent it. It has expanded with every stage of national growth, for while the ancient prerogatives still exist, they can be lawfully exercised only upon the advice and sanction of a responsible minister—a minister and a ministry responsible to the Commons House of Parliament.'

The Senate

The Senate of Canada in 1911 consisted of 87 members, of whom 24 were from Ontario, 24 from Quebec, 10 from Nova Scotia, 10 from New Brunswick, 4 from Prince Edward Island, 4 from Manitoba, 4 from Saskatchewan, 4 from Alberta, and 3 from British Columbia. Although for reasons of convenience senators are usually associated in debate, and

even elsewhere, with specific localities—generally those in which they reside—they are, with the exception of those from the Province of Quebec, appointed for their province at large, and not for any constituency or group of constituencies. In Quebec a senator is appointed for each of the twenty-four electoral divisions of Lower Canada, which in pre-Confederation days returned members to the legislative council.

The composition of the Senate was arranged with the idea of affording protection to the smaller provinces which they might not always enjoy in a house where the representation was based on numbers only. It is for this reason that the Maritime and the Western provinces have a larger proportional representation in the Senate, compared with Ontario and Quebec, than they possess in the House of Commons.

Senators are appointed by the governor-general in council on the advice of the first minister, and, subject to certain conditions, hold their places for life. It is doubtful if, as in the case of a member of the House of Commons, the acceptance of an office of emolument under the crown vacates a senator's seat, but in the circumstance of a senator being appointed to office, it is customary to require from him the resignation of his senatorship in writing.

The qualifications for the office of senator are :

1. He must have attained the age of 30 years.
2. He must be a British subject either by birth or naturalization.
3. He must be possessed of real property to the value of $4000, free from all encumbrances.
4. He must be resident in the province for which he is appointed.
5. In the case of the Province of Quebec he must either have his real property qualification in the district for which he is appointed, or be resident in that division.

A senator forfeits his seat in any of the following cases :

1. If for two consecutive sessions of parliament he fails to attend in his place.

2. If he becomes a subject or citizen of a foreign power.
3. If he becomes a bankrupt or defaulter.
4. If he is attainted of treason, felony, or of any infamous crime.
5. If he ceases to be qualified in respect of property or of residence.

A senator is entitled, as such, to the distinction of 'Honourable' so long as he holds the office, but no longer. He receives an allowance of $2500 for each session extending over thirty days, subject to a deduction of $15 a day for every day's absence. Where the session is less than thirty-one days he receives $20 for each day's attendance. He is also paid his actual travelling expenses to and from the seat of government.

The Senate has co-ordinate powers of legislation with the House of Commons, except in the case of bills involving a charge upon the Treasury, or bills imposing any tax or impost, which must originate in the lower house. The Senate can neither originate nor amend such bills, though it may reject them.

The speaker of the Senate is appointed by commission under the great seal and holds office during pleasure. Except in name this office presents little analogy with that of speaker of the House of Commons, who almost ostentatiously stands aloof from all questions of party politics. The speaker of the Senate, on the other hand, is frankly ministerialist, sometimes a member of the cabinet, and necessarily a supporter of the administration of the day.

In common with his brother senators the speaker has a vote in all cases, and when the votes are equal the decision is deemed to be in the negative. Though he seldom exercises the privilege, the speaker may join in debate, in which event he comes down from the chair and speaks from the floor uncovered. He receives in salary and allowances about $6000 per session in addition to his indemnity as a senator, and is provided with handsome quarters in the parliament buildings.

The functions of the speaker are limited, being virtually confined to presiding over the deliberations of the Senate.

He decides questions of order, subject to an appeal to the Senate. The members do not address the speaker in debate, but speak to the house at large. Except in certain cases arising under the Civil Service Act of 1908 and its amendments no patronage appertains to his office.

It is contrary to usage of either house of parliament to mention in debate the other chamber by name. Thus a senator wishing to allude to something that has happened in the House of Commons will refer to the incident as having occurred in 'another place.' Conversely, the same practice prevails in the House of Commons.

The chief officers of the Senate are the clerk, the clerk assistant, the law clerk, the gentleman usher of the Black Rod, and the sergeant-at-arms.

The clerk records the proceedings of the Senate in the form of minutes, and generally performs the duties suggested by his office. He administers the necessary oaths to newly appointed senators, pronounces the royal assent to bills at the appointed ceremony in that behalf, or announces their reservation. He also acts as cashier.

The clerk of the Senate is also styled the 'Clerk of the Parliaments,' and, as such, is the custodian of the original acts of the legislatures of Upper and Lower Canada, of the late Province of Canada, and of the Dominion of Canada.

The gentleman usher of the Black Rod is the ceremonial officer of parliament. He has the direction of the arrangements for the opening and closing of parliament, bears the governor-general's messages to the House of Commons to attend His Excellency in the Senate, and performs other formal offices.

The sergeant-at-arms attends the speaker with the mace at the daily opening and adjournment of the house, and on all state occasions; maintains order and decorum in the chamber, galleries and lobbies during the sittings of the Senate, and generally is responsible for the carrying out of the speaker's orders. He likewise keeps and certifies a list of senators present at each sitting, as does also the gentleman usher of the Black Rod.

The clerk of the Senate, the sergeant-at-arms and the

gentleman usher of the Black Rod are appointed by the governor in council and hold office during pleasure. The clerk assistant, law clerk, translators, and other officers and clerks are appointed by the Senate on the recommendation of the Committee of Internal Economy and Contingent Accounts, of which the speaker is not even a member. The clerk and the clerk assistant ordinarily sit at the table during the sessions of the house, as on special occasions do the law clerk and the clerk of the crown in Chancery. The sergeant-at-arms and the gentleman usher of the Black Rod also have seats on the floor.

Divorce is granted by the parliament of Canada in the form of a private bill in each case, which goes through all the stages in both houses exactly as any other private bill.[1] Bills of this nature originate in the Senate, the petition being referred to the Standing Committee on Divorce, which examines witnesses, and after due inquiry into, and consideration of, all the circumstances of each individual case, makes its report to the house. Applications for divorce are received from residents in the Provinces of Ontario, Quebec, Manitoba, Saskatchewan and Alberta only, the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia having divorce courts of their own.

Divorces are granted by parliament only after the establishment to the satisfaction of the Senate committee of charges which include adultery. In this respect wives are on an equal footing with husbands, the adultery of either being held sufficient to warrant the dissolution of the bond. In the forty-five years which have elapsed since Confederation the parliament of Canada has granted one hundred and sixty divorces, an average of less than four a year.

The Senate holds its sittings and regulates its adjournments within a session, at pleasure, but prorogation terminates its proceedings until parliament is again summoned by the crown. In former days there was occasional conflict between the two houses, the legislative council of the Province of Canada once going to the length of throwing out the Supply

[1] Previous to the session of 1879 divorce bills were reserved for the signification of the royal pleasure, in conformity with the governor-general's instructions.

Bill; and since Confederation the Senate has rejected three or four important government measures; but within recent years acute differences have been rare, the upper house for the most part being content to follow the lead of the Commons. This arises, in part at least, from a uniformity of political complexion, which, in turn, is to be ascribed to the long continuance of one party in power. When the conservatives went out in 1896, after having enjoyed uninterruptedly eighteen years of office, there were not more than a dozen liberal senators. In 1911, after fifteen years of liberal rule, the position of parties in the Senate was almost reversed.

It cannot be denied that the Senate has not fulfilled the expectation of its founders, who proposed to themselves an independent body, exercising a moderating and restraining influence upon the legislation of the country. Such an influence is universally admitted to be advantageous, yet more and more the Commons seems to absorb all rule and authority and power, at the expense of the Senate, which correspondingly suffers in prestige. This surely is not to the advantage of the state. Various remedies have been suggested. The mode of appointment is commonly criticized, many holding that the Senate would be more influential if its members were elected instead of being, as now, nominated by the prime minister. More influential it might be—it certainly would be more partisan; and, when it contained a majority opposed to the government of the day, it would be more contentious and less amenable to those moderating counsels which generally govern therein, even when a majority of its members are unfriendly to the party in power. Others there are who consider that the remedy lies with the executive. In 1912 only one cabinet minister sat in the Senate, the other seventeen being in the Commons. It is rare indeed for a government measure to be introduced in the upper house. The consequence is that for more than half the time the Senate has nothing to do.

This is not owing to any lack of legislative capacity, for it is a recognized fact that the standing special committees of the Senate devote more pains to, and deal more satisfactorily with, the bills referred to them than do those of the

Commons. While it is no doubt expedient that the prime minister, the minister of Finance and the heads of the large spending departments should be in the Commons, there does not seem to be any reason why the minister of Justice, the secretary of state, the minister of Agriculture and the postmaster-general, or some of them, might not, with advantage to the public service, sit in the upper house. If there were three cabinet portfolios in the Senate, and if a reasonable proportion of government measures was initiated therein, it is the view of some that the Senate would recover much of its old-time importance, and take that place in the administration of the country's affairs which it was originally intended it should fill.

The House of Commons

The business of the great council of the nation, which we call parliament, is not confined to the making of laws, but includes the consideration of all matters of public concern. Parliament may advise the crown on subjects of general policy. It possesses the right of inquiry into all acts of administration by the ministers to whom it has entrusted the management of the country's affairs. It regulates taxation, and provides money for the requirements of the public service. In respect of the two last-named functions the House of Commons has the exclusive initiative, and in all others a preponderating influence.

Parliament is called together by the governor-general, who, on the advice of his ministers, issues a proclamation summoning both houses to assemble on a day appointed by him. No date is fixed by the constitution for the meeting of parliament, the only limitation being that twelve months must not intervene between the last sitting in one session and the first sitting in the next session.

For a long time parliament used to meet early in February. Some years ago the date was changed to November, in the expectation of thereby avoiding summer sessions—an expectation not always realized. As a rule the sessions are not less

than six months in length, and there does not seem any prospect that they may become shorter.

On the occasion of the opening of the first session of a new parliament the members assemble at Ottawa, and take the oath of allegiance before commissioners appointed for that purpose. At the appointed hour the governor-general, either in person or by deputy, proceeds to the Senate chamber and takes his seat upon the throne (the deputy governor sits in a chair at the foot of the throne). The speaker of the Senate, being commanded in that behalf, directs the gentleman usher of the Black Rod to acquaint the House of Commons of the governor-general's pleasure that they attend him in the chamber of the Senate, whereupon they all troop up and stand in studied disorder outside the bar. The speaker of the Senate then informs them that His Excellency the governor-general does not see fit to declare his reasons for summoning the present parliament until a speaker of the House of Commons is elected according to law, whereupon they withdraw to their own house, where the leader of the government, addressing himself to the clerk (who, standing up, points to him with outstretched finger in silence, and then sits down), proposes (seconded by a cabinet minister) that Mr. A. B. do take the chair as speaker. It is open to any two members to propose and second any other member for the office, in which case the house makes its selection by vote. When the result is declared, the proposer and seconder of the successful candidate conduct him to the chair, whence he returns his humble acknowledgment to the house for the honour done him, and sits down. The mace, the symbol of authority, which before lay under the table, is then laid upon the table.

Next day the governor-general again comes down to parliament, this time in person and in full state. He takes his seat upon the throne. Again Black Rod is dispatched on his mission to the Commons, who arrive with the speaker-elect at their head, preceded by the sergeant-at-arms bearing the mace. Standing outside the bar, the speaker-elect makes a reverence to the throne, and in historic phrase acquaints His Excellency that the House of Commons has elected him

its speaker, despite his unfitness for the office, and at the same time claims, on behalf of the Commons, freedom of speech, and access to His Excellency's person at all seasonable times. He does not, as in England and in some Canadian provinces, seek the royal approval of his election. The governor-general, having, through the speaker of the Senate, confirmed the Commons in the exercise of all their constitutional privileges, proceeds to read his speech both in English and French, after which the Commons withdraw. Upon reaching their own chamber the speaker recounts what happened in the Senate up to the reading of the speech, of which, he says, 'to prevent mistakes' he has obtained a copy. The leader of the house then asks leave to introduce a bill generally styled 'An Act respecting the administration of Oaths of Office,' which is read a first time and never heard of again. In fact, there is no such bill. The form is gone through at the beginning of each session to assert the right of the Commons to proceed to business before considering the speech from the throne, which is then read. On a day fixed for its consideration a private member, by arrangement, moves an address of thanks to the governor-general for his gracious speech, which is duly seconded, and affords the first test of the government's popularity. Should the numerical strength of parties in the house be anything like equal, it is customary for the opposition to move an amendment to this motion, censuring the government for some act of commission or omission, or simply declaring that they do not possess the confidence of the house. If such an amendment carries, the ministry must resign, and the governor-general 'sends for' the leader of the opposition. An adverse vote on the speakership is not necessarily regarded as a vote of want of confidence, because, while the leader of the government generally proposes the speaker, he does so in his capacity as leader of the house rather than of the government. In England the speaker is no longer regarded as the nominee of a party, and is always proposed and seconded by unofficial members.

Parliamentary procedure is too elaborate and intricate a subject to be gone into at any length here. It may be well,

however, briefly to note a few points of interest connected with the conduct of business in the House of Commons.

He who has witnessed for any length of time the governmental system of Canada in actual operation cannot fail to have marked the strength of party discipline, and particularly the control exercised by the administration over its parliamentary following. This, perhaps, is to be ascribed to a concurrence of more or less favouring conditions. In the parliament of Canada there are only two parties, and the division between them is clear cut. 'Groups' are unknown. There is no organized labour or socialistic vote to harass the ministry. Majority and minority are alike homogeneous. Then, too, since Confederation successive administrations have possessed ample majorities in parliament, and it may be added that, for by far the larger portion of the time, each side in turn has enjoyed the immense advantage of a singularly magnetic leader, whose commanding personality has evoked the respect and devotion of his entire following.

This manifestation of party discipline—lack of independence it is sometimes called—has at least the advantage of imparting an element of permanence and stability to Canadian institutions, the lack of which is a misfortune to more than one popular assembly in the world.

The rules of parliament assign two days (Tuesday and Friday) in each week to government business. Before the session is very far advanced the leader of the house moves that for the remainder of the session government orders have precedence on Thursdays. A few weeks later he takes Wednesdays by the same process; then Mondays. Last of all he appropriates Saturdays, and so has them all.

A great deal of the work of the House of Commons, including all private legislation, is performed in the standing committees which are struck at the beginning of each session. By arrangement between the leaders, both political parties are represented on these committees in somewhat the same numerical proportion that they occupy on the floor of the house.

A private member may introduce a public bill, by which is meant a bill dealing with matters of a public nature, but

unless he does so at an early period of the session, there is not much chance of its reaching a third reading, unless he can persuade the ministry to transfer it to government orders.

Money bills (*i.e.* measures involving a charge upon the people) can be proposed only by a member of the government, who must announce, when moving the house into committee of the whole to consider the resolution upon which a bill of this nature is founded, that the governor-general is acquainted with the subject-matter of the resolution and recommends it to the house.

Lined up in battle array, the two political parties confront one another on the floor of parliament, with the speaker as umpire, each vigilant to detect and take advantage of any opportunity that may present itself to score against its adversary. The chief onslaughts of the opposition are made when the minister of Finance moves that the speaker leave the chair and the house go into committee 'to consider of the supply to be granted to His Majesty.' In conformity with the old rule that redress of grievances must precede supply, such occasions afford the most favourable opportunity for assailing the ministry. It is then open to the opposition to move an amendment against any portion of the government's policy, censuring the ministers for what they have done or left undone. Each time the minister moves the house into committee of supply, a fresh amendment may be moved. Such amendments constitute votes of want of confidence, and, if carried, entail the resignation of the government.

To ensure the regular attendance of their supporters, each side has several 'whips' (*i.e.* aides-de-camp to the leader of the government and of the opposition respectively), whose principal duty it is to see that the members under their surveillance are in their places when the division bells ring, steadfast in their allegiance, or, to adopt the shibboleth of party, prepared to 'vote right.' The whips, who are of course members of the house, perform services of the highest importance from a party point of view—services which one is tempted to think cannot always conduce to their personal popularity. They are supposed to know where every member of their party is at any time, and sometimes appear—no

doubt involuntarily—in the rôle of disturbers of convivial gatherings. In important debates they arrange the order of speakers, pair members who cannot be present at a division, and in other ways contribute to the amenities of political warfare. It is true, indeed, that one does not hear much of them; in this respect they resemble 'the engineers of a big transatlantic steamer whom the passengers never see, but on whose ability, skill and resource the safety of the mighty vessel largely depends.' [1]

Though very real personages, the whips are quite unknown to the forms of parliament. Nor do the journals of the house contain any reference to another reality, that mysterious body known as the 'caucus,' of whose proceedings, though veiled in secrecy, vague rumours occasionally reach the press. The caucus, in its simplest form, is the aggregate of the supporters of the government or of the opposition in both houses. From time to time the members of either party meet together, to discuss with their leaders questions of policy, to take counsel of one another, to agree on a common course of action upon occasions of emergency. Such a meeting is a 'caucus.' The chairman of the caucus is always a private member, generally an old party war-horse of approved fidelity and worth.

Ministerial caucuses are summoned by the whips at the instance of the prime minister; those of the opposition at their leader's call. No member of either house is supposed to attend the caucus unless he receives a notice from the whips to this effect, and stringent precautions are sometimes taken to see that this rule is observed.

Politics play so large a part in the real life of the House of Commons that it is somewhat amusing to be told that officially the house knows nothing of party strife. Its journals contain no allusion to political divisions, and in the statutes (with one incidental exception in recent years) [2] they are equally unknown. This was illustrated in the

[1] *The Book of Parliament*, by Michael MacDonagh, pp. 367-8.

[2] The 39th section of 'An Act respecting the Senate and House of Commons' (R. S. C., cap. 10) provides that 'To the member occupying the recognized position of leader of the Opposition in the House of Commons there shall be paid an additional sessional allowance of seven thousand dollars.'

imperial parliament not long since, when A. J. Balfour, then leader of the opposition, wishing to refer to his following, spoke of them, not directly as an opposition under his leadership, but as 'gentlemen who usually act with me.'

The office of speaker of the House of Commons is one of great dignity and importance. He is the mouthpiece of the house. He puts all motions and announces the result of votes. In the chair he controls the deliberations of the assembly and enforces his rulings. He is the judge of all questions of order, subject to an appeal to the house. He interprets the rules of debate. He reprimands members when necessary, and in cases of grossly disorderly conduct may 'name' a member, which involves the immediate withdrawal of the offender.

The speaker cannot join in debate while presiding over the house, though in committee of the whole he may give expression to his views—a privilege of which he rarely avails himself. Sometimes, however, he may find it necessary to explain certain matters connected with the management of the affairs of the house, or to represent the views of his constituents. The speaker has a casting vote in the event of a tie, but not otherwise. While in such a contingency he is free to vote as he pleases, the etiquette of the occasion requires that he shall so vote as not to preclude further consideration of the subject by the house.

The business affairs of the House of Commons are regulated by a board styled the Commissioners of Internal Economy, composed of the speaker and four members of the Privy Council, being at the same time members of the House of Commons, appointed by the governor-general. These commissioners form an advisory board to assist the speaker in regard to appointments, promotions, increases of salary, superannuation, and contingent expenses of the house.

An officer styled the chairman of committees, whose duty it is to preside over all committees of the whole house, is elected at the first session of each parliament for the life of the parliament. By the Act R. S. C., 1906, cap. 13, whenever the speaker of the House of Commons, through illness

or any other cause, finds it necessary to leave the chair, he may call upon the chairman of committees, or, in his absence, any member of the house, to take the chair and act as deputy speaker during the remainder of such day, unless he himself resumes the chair before the close of the sittings for that day.

Whenever the house is informed by the clerk at the table of the unavoidable absence of the speaker, the chairman of committees, if present, takes the chair, performs the duties and exercises the authority of speaker in relation to all the proceedings of the house, until the meeting of the house on the next sitting day, and so on from day to day until the house otherwise orders. Should the house adjourn for more than twenty-four hours, the deputy speaker continues to perform the duties and exercise the authority of speaker for twenty-four hours only, after such adjournment.

The salary of the deputy speaker is $2000, voted each session, in addition to his indemnity as member.

The speaker at a dissolution of parliament is deemed for purposes of administration to be the speaker until his successor is chosen by the new parliament.

The chief officers of the House of Commons are the clerk, the sergeant-at-arms, the law clerk and the clerk assistant. The clerk and the sergeant-at-arms are appointed by commission under the great seal, and hold office during the pleasure of the crown. The clerk assistant, the law clerk, and the chief clerks at the head of the various branches, as well as the other members of the staff, including the clerks of committee, are appointed by the speaker.

The clerk sits at the table (as does also his assistant). He is supposed to prepare the daily record of the proceedings of the house, which is called the 'Votes and Proceedings,' though this work is now done under his responsibility by a special officer. The clerk has the custody of all papers of the house, and generally assists the speaker. The clerk assistant reads whatever requires to be read to the house, calls out the names of the members when a division is being taken, and reads the titles of all bills.

The sergeant-at-arms occupies a special seat near the bar. He attends the speaker with the mace, carries out the

orders of the house, arrests all persons ordered to be taken into custody, and is responsible for their safe keeping; he preserves order in the precincts of the house, and exercises a general supervision over the messenger service.

The clerk of the crown in Chancery, though appointed by commission under the great seal, and consequently a crown officer, is, in some respects, an officer of parliament as well. He issues writs for elections of members of the House of Commons, and at the opening of the first session of a new parliament is present at the table of that house, where he hands the clerk the roll containing the names of the members elected to serve. He also attends in the Senate chamber at the ceremony of giving the royal assent, and from his place at the table reads the titles of the bills about to become law. Proclamations summoning, proroguing and dissolving parliament, though issued under the great seal, emanate, by command, from the office of the clerk of the crown in Chancery; and until recent years writs of summons, addressed to senators, now attested by the secretary of state of Canada, were signed by him.

No system of closure or other impediment to the freedom of debate exists in the parliament of Canada. Every member, provided he conforms to the rules, may speak to a motion without any limitation of time. Upon rare occasions of persistent obstruction, mutterings are sometimes heard of the necessity for the introduction of some such restriction, but the privilege of free speech remains uncurtailed.

The House of Commons consisted in 1912 of 221 members, of whom Ontario sent 86, Quebec 65, Nova Scotia 18, New Brunswick 13, Manitoba 10, Saskatchewan 10, British Columbia 7, Alberta 7, Prince Edward Island 4, Yukon Territory 1. The representation is directly proportional to population, and is based on that of Quebec. After every census the population of Quebec is divided by sixty-five, and the quotient forms the unit of representation in the other provinces. The members are elected under the provincial franchises. No property qualification is required, but a member must have attained the age of twenty-one years and be a British subject by birth or naturalization.

When a bill passes both houses it is examined by the minister of Justice, who submits it to the governor-general, with a certificate to the effect that in his opinion there exists no objection to the royal assent being given thereto, whereupon the governor-general writes on each bill the words, 'I assent to this Bill in His Majesty's name,' and signs it. At the ceremony of prorogation the clerk of the crown in Chancery reads the titles of all the bills passed during the session, after which the clerk of the Senate announces that 'In His Majesty's name His Excellency the Governor-General doth assent to these Bills.'

In the case of the Supply Bill the procedure is somewhat varied. This important measure is presented by the speaker of the House of Commons in the following words :

> May it please Your Excellency :
> The Commons of Canada have voted the supplies required to enable the Government to defray the expenses of the public service. In the name of the Commons I present to Your Excellency a bill intituled 'An Act for granting to His Majesty certain sums of money for the public service of the financial year, . . . to which Bill I humbly request Your Excellency's assent.

The royal assent is then pronounced by the clerk of the Senate in these quaint words :

> In His Majesty's name His Excellency the Governor-General thanks his loyal subjects, accepts their benevolence, and assents to this Bill.

The original acts are then confided to the custody of the clerk of the parliaments.

By the British North America Act, 1867, the governor-general, with reference to bills passed by the houses of parliament, is directed to declare according to his discretion, but subject to the laws and to the royal instructions, either that he assents to a bill in the king's name, or that he withholds the king's assent, or that he reserves the bill for the signification of His Majesty's pleasure. Previous to 1878 the governor-general's instructions forbade him to give the royal assent to

1. Any Bill for the divorce of persons joined together in holy matrimony.

2. Any Bill whereby any grant of land or money, or other donation or gratuity, may be made to yourself.

3. Any Bill whereby any paper or other currency may be made a legal tender, except the coin of the realm or other gold or silver coin.

4. Any Bill imposing differential duties.

5. Any Bill, the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty.

6. Any Bill interfering with the discipline or control of Our forces in Our said Dominion by land and sea.

7. Any Bill of an extraordinary nature and importance whereby Our prerogative, or the rights and property of Our subjects not residing in Our said Dominion, or the trade and shipping of the United Kingdom and its dependencies may be prejudiced.

8. Any Bill containing provisions to which Our assent has been once refused, or which has been disallowed by Us:

Unless such Bill shall contain a clause suspending the operation of such Bill until the signification in Our said Dominion of Our pleasure thereupon, or unless you shall have satisfied yourself that an urgent necessity exists, requiring that such Bill be brought into immediate operation, in which case you are authorized to assent in Our name to such Bill, unless the same shall be repugnant to the law of England or inconsistent with any obligations imposed on Us by Treaty. But you are to transmit to Us by the earliest opportunity the Bill so assented to, together with your reasons for assenting thereto.

When the governor's instructions were revised in 1878, under circumstances already set forth in this article, all directions respecting the reservation of bills for the signification of the royal pleasure were omitted, and since that date the number of reservations has been very small. There are no instances on record of a governor-general of Canada *withholding* the royal assent, as distinguished from reserving a bill for the signification of the sovereign's pleasure.

When a bill is to be reserved, the practice is that immediately after the royal assent has been given to the other measures passed during the session, but before the Supply Bill

is assented to, the clerk of the crown in Chancery reads the title of the offending measure, whereupon the clerk of the Senate announces that 'His Excellency the Governor-General doth reserve this Bill for the signification of His Majesty's pleasure thereon,' and the measure remains inoperative until the royal assent is announced by proclamation of the governor-general in the *Canada Gazette*.[1]

Acts of the parliaments of Canada are subject to disallowance by the king in council at any time within two years of the receipt thereof by one of His Majesty's principal secretaries of state. An instance of the exercise of this power before Confederation is afforded by the disallowance, in 1847, of the act of the Province of Canada (10-11 Vict. cap. 43) for the incorporation of the town of Bytown (now Ottawa). Only one act of the Dominion parliament has suffered this fate—33 Vict. cap. 14, commonly known as the Oaths Bill, which was disallowed in 1873 as being *ultra vires* of the parliament of Canada.

The House of Commons may last for five years from the date of the return of the writs summoning it, but is subject to earlier dissolution by the governor-general. The prerogative of dissolution is virtually vested in the prime minister, a power which adds enormously to his authority and prestige. This is not to say that a governor-general is bound automatically to grant a dissolution in the case of, say, a newly elected parliament, at the mere caprice of his chief adviser. As the guardian of the prerogative, it is at once his right and his duty to require a reason justifying its exceptional exercise, and no prime minister would lightly expose himself to the risk of refusal by advising a course in defiance of constitutional precedent. At the same time the constitution is flexible, and when the expediency of a dissolution is manifest the reasons for granting it are seldom wanting.

The form in which advice is tendered to the governor-general will be explained later. Let it suffice to say here that when a prime minister has decided to dissolve, he causes a

[1] On June 2, 1886, 'An Act further to amend the Act respecting fishing by foreign vessels' was reserved for Her Majesty's pleasure. The royal assent thereto was given on November 26, 1886, and the fact was announced by proclamation dated December 24, 1886.

minute of council to be passed recommending the issue of a proclamation dissolving the existing House of Commons, and calling a new parliament to meet on a certain day. The minute submits the date of the writs, the date of nomination, and the date of the return of the writs. On the approval of the governor-general being given the proclamation issues accordingly. Another minute is passed recommending the appointment of the returning officers, which when approved is sent to the clerk of the crown in Chancery, who thereupon dispatches the writs with all speed, together with the requisite copies of the necessary proclamation to be posted up in each constituency, ballot-papers, ballot-boxes, and the whole paraphernalia of an election. When the polling is over the returning officer endorses the result upon the writ and returns it to the clerk of the crown in Chancery, who gazettes the new member.

In recent times there has been much public discussion of mandates and pledges and referendums. The unwritten portion of the Canadian constitution is anything but fixed. A constant development seems to be in progress. Perhaps in the course of evolution the day may arrive when a member of parliament will no longer be a representative, but merely a delegate, a sort of telephone through which his constituents will convey their wishes to the government of the day. So far, however, the parliament of Canada has proceeded on the ancient lines of the British constitution, under which a member represents not merely his own constituency but the whole country, and is sent to parliament to act according to his best judgment in the interest of his constituents. These should look up to him for guidance, not he to them, like the French revolutionist who pleaded in excuse for his excesses: 'Had I not to follow them? Was I not their leader?'

The mandate theory has never been applied in Canada. The Reciprocity Treaty of 1854 was negotiated in the last days of an expiring parliament. Confederation was agreed to in March 1865 by a legislature elected nearly two years before on quite different issues. The North-West Territories were acquired, the Canadian Pacific Railway contract was

entered into, and the Transcontinental Railway was built on the authority of parliaments elected to administer the affairs of Canada, but without any mandate in respect of these particular policies. Apart from the enormous expense and difficulty involved in appealing to the people on every occasion where a policy which did not happen to have been under discussion at the preceding general election is proposed by the government, it is not easy to see how such a system could work in practice, without changing the whole character and functions of parliament.

Should a ministry suffer defeat at the polls by a decisive majority, it is customary for it to resign without waiting for an adverse vote in parliament, notwithstanding that it is only through the House of Commons that the will of the people can be constitutionally expressed. This procedure, dictated by reasons of convenience, was inaugurated by Disraeli in 1868 and, though pronounced at the time to be an 'unusual course,' has since been followed both in England and in Canada, the defeated ministry remaining in office only long enough to complete unfinished business and to set its affairs in order. The length of the interval between the date of polling and the resignation, though dependent upon circumstances, does not ordinarily extend beyond three weeks.[1] Should, however, the result of the elections be inconclusive, ministers, even though there may appear to be a small majority against them, are justified in holding office until they learn their fate from a vote of the House of Commons. In such a contingency the new parliament should be summoned without delay.

The propriety of a ministry which has suffered defeat at the polls advising appointments before going out of office has been a question of periodical interest in recent years. Until 1878 it seems to have been the recognized practice for an outgoing government to fill vacancies existing on the day of polling. The Mackenzie administration was overthrown on

[1] The Mackenzie government, defeated at the polls on September 17, 1878, remained in office until October 16; but Sir Charles Tupper, defeated on June 23, 1896, resigned on July 8, and Sir Wilfrid Laurier, defeated on September 21, 1911, resigned on October 6.

September 17 of that year. Yet between that date and the swearing in of his successor, Mackenzie appointed a Supreme Court judge, a judge of the Superior Court of Lower Canada, and filled other important vacancies then existing, both in the inside and outside service, as a matter of course. His action provoked no adverse comment. Upon the defeat of Sir Charles Tupper in 1896 the governor-general of the day (Lord Aberdeen) refused to allow certain judgeships and senatorships to be filled, on the ground that his advisers had lost the confidence of the people. This precedent was accepted by the Laurier government in 1911, and apparently commends itself to popular opinion. Nevertheless, the practice of allowing a defeated ministry to fill up vacancies seems more conformable, at once to the best traditions of English public life, and to those chivalrous instincts which in all civilized, and some uncivilized, communities prompt generous treatment of a fallen foe.

The Cabinet

The cabinet is in name and in fact a committee of the Privy Council, selected by the prime minister from among those councillors who possess the confidence of the House of Commons. It is also in a real and true sense, as Bagehot well says, 'a board of control chosen by the legislature out of persons whom it trusts and knows, to rule the nation. . . . A combining committee—a hyphen which joins—a buckle which fastens the legislative part of the state to the executive part of the state. In its origin it belongs to the one, in its functions it belongs to the other.'

As will be inferred from the foregoing, a cabinet minister must possess a seat in one or other branch of the legislature—not necessarily on appointment, but within a convenient period thereafter. If not actually a privy councillor, he must be sworn of that body as a condition precedent to his entry into the cabinet, for it is from the ranks of the Privy Council that cabinet ministers are drawn. In law the Privy Council remains the advisory body—the cabinet is unknown. It is undoubtedly a singular fact that this body, all-powerful under

the British system of government, should have no legal existence. The cabinet is never mentioned in any act of parliament. It keeps no record of its own proceedings, or even of its meetings, which are secret. No secretary or clerk is present thereat. Its number is not fixed. The names of its members are not to be found collectively in any public document. They are not even officially announced, save by the prime minister, verbally on the floor of parliament, and then, it may be, months after the cabinet has been formed. Should the life of a ministry lie wholly within a parliamentary recess, that is to say, should the new cabinet never have met parliament, its composition might not be officially known at all. No formalities attend admission into its ranks, nor is any oath taken by a member of the cabinet as such.

The function of the cabinet is to advise the governor-general in all matters appertaining to the carrying on of the government. To this end its members meet together and deliberate upon affairs of state calling for consideration and action. Questions are freely discussed at cabinet meetings, and, in cases of pronounced differences of opinion, are sometimes decided by vote; but once a line of policy is agreed upon, whether by general assent, by the rule of the majority, or by the dominating influence of the prime minister, all the members are equally responsible for the decisions arrived at, and are equally bound to support and defend them or resign.

There is not a fixed number of cabinet ministers. The first Dominion ministry contained thirteen members, and this number has never been greatly departed from. In 1912 there were fifteen portfolios, held by the president of the Privy Council, the ministers of Finance, Justice, Public Works, Railways and Canals, Customs, Inland Revenue (who is also minister of Mines), Marine and Fisheries (who is also minister of the Naval Service), Militia and Defence, Agriculture, the Interior (who is also the superintendent-general of Indian Affairs), Trade and Commerce, Labour, the secretary of state of Canada (who is also secretary of state for External Affairs, and presides over the department of the King's Printer), and the postmaster-general.

In the formation of a cabinet, among many practical

considerations to be borne in mind, care must be taken to see that the various geographical and racial divisions of the Dominion are represented, with some regard to their relative importance. Thus, at present (1912), Ontario has 7 members, Quebec 5, the Maritime Provinces 2, the Prairie Provinces 3, and British Columbia 1, but there is no fixed rule in the matter, and it is to be hoped that Canadians will soon outgrow the parochial spirit which, by insisting upon such provincial limitations, hampers the choice of the prime minister.

While the heads of public departments of the government of Canada are always cabinet ministers, it is well to remember that the cabinet minister, who is at the same time head of a department, occupies a dual position. He is an adviser of the crown. As such he receives no formal appointment. He takes no oath of office, is paid no salary, and his tenure is wholly dependent upon the prime minister. But, in addition to this, he is head of a department of government. As such he fills a public office to which he is appointed by commission under the great seal. He receives a salary for the discharge of duties which he takes an oath to perform. This office he holds, irrespective of the life of the prime minister of the cabinet, until he resigns or is superseded. Thus it is that after the dissolution of a cabinet by the prime minister's death or resignation, the heads of departments continue to perform ministerial functions until their successors are appointed.

A cabinet may contain one or more members who hold no ministerial office. These are called ministers without portfolio. They are simply members of the Privy Council in respect of whom the prime mnister has directed the clerk to send a notice of the cabinet meetings. Without further ceremony they attend. Such members have the same status and voice at cabinet meetings as the holders of portfolios.

The solicitor-general is a member of the ministry, but not of the cabinet. He is not necessarily a privy councillor, and is therefore not an adviser of the crown.

Though adhering to the British constitutional principle which requires every act of the crown to be performed on the advice of responsible ministers, the Canadian practice has not maintained that distinction between the cabinet and the

Privy Council which exists in England. There the cabinet assembles informally to advise the sovereign on matters of public policy, not to perform any ministerial act. Its meetings are quite distinct from those of the Privy Council, which are held for the transaction of the business of state, such as the issue of proclamations, orders-in-council bringing statutory provisions into effect, and other formal acts of government, for it is only through privy councillors that the crown can do anything. A Privy Council may be composed of three or more councillors—not necessarily cabinet ministers—drawn from members of the government, the great officers of state, or other members of His Majesty's household, and members of either house of parliament in political sympathy with the government. Its function is to carry into effect advice given to the sovereign by the cabinet, or to discharge duties imposed upon it by statute. The king is never present at cabinet meetings. His Majesty, however, frequently presides at Privy Councils. On extraordinary occasions a full meeting of the Privy Council is convened, with the sovereign in the chair, to which every privy councillor is summoned (on the advice of the cabinet), but this ceremony is very rare.

Canada has in actual practice combined the functions of these two bodies. The cabinet stands in the same advisory and consultative relation to the governor-general in respect of general questions of policy as the English cabinet occupies towards the sovereign. It sits also, at the same time, as a committee of the Privy Council, and as such transacts a vast amount of administrative business which in England is dealt with through the Privy Council, or departmentally by individual ministers. This is indeed its principal function.

The business dealt with by the cabinet in its executive capacity is of the most varied character, and includes practically every act of importance pertaining to the administration of the military, naval, financial and postal services—the regulation of matters relating to trade and commerce; navigation and shipping; the fisheries, Dominion lands, Indians; the letting of contracts for public works; the approval of railway plans and specifications; appointments to office of all ranks and degrees, from a lieutenant-governor to a tide-waiter;

external affairs, the civil service, and a host of other matters, many of which, one is tempted to think, might with advantage be dealt with departmentally.

In all these matters the cabinet acts only in an advisory capacity. It is the governor-general's approval that makes the cabinet's recommendations effective.

Cabinet meetings are summoned by the clerk of the Privy Council, who notifies each minister in the following terms:

> SIR,
> I am directed to request you to attend a meeting of the Committee of the Privy Council to be held to-day at . . . o'clock.

Four ministers are considered necessary to form a quorum for a cabinet council. In pre-Confederation days the governor-general was enjoined by his instructions not to permit his council to proceed to business unless one-third of the members were present. In the instructions issued to Lord Dufferin in 1872 the one-third was changed to four members. When the governor-general's commission and instructions were revised in 1878 in the manner already explained, all reference to a quorum was omitted, but the tradition requiring four members has endured till the present day.

The governor-general never attends the deliberations of his cabinet, though he has been known formally to preside at a council summoned for the performance of a ceremonial act, such, for example, as the first meeting with his ministers, or the swearing in of a privy councillor.

THE PRIME MINISTER

The leading personage in the government unquestionably is the prime minister—the choice at once of the governor-general and of the people, and the principal intermediary between the two. As chief adviser of the crown, it is he who moulds and directs the policy of the administration. To him belongs the right of choosing his colleagues, subject to the approbation of the governor-general. He can at any time call for the resignation of any minister, and his withdrawal

from office carries with it the dissolution of the cabinet. The decisions of the ministry on questions of public policy are communicated to the governor-general by the prime minister, who is the spokesman for the cabinet, and upon whom rests in a very special degree the responsibility for advice tendered to the sovereign's representative.

While thus influential in the councils of the crown, the prime minister is at the same time the acknowledged chief of the dominant party in parliament, and is thus entitled to speak in the name of the whole nation. Yet, strange as it may appear, this office, which unites in itself the authority of the crown and of the people, is unknown to the constitution, and, with one trifling exception,[1] is unrecognized by law. The prime minister, as such, has no precedence over any other member of the Privy Council, and in the cabinet may find himself overruled or outvoted. It is of course always open to him to force the resignation of one or all of his colleagues at any time, and in this way he possesses a reserve power which he can bring into play whenever he conceives the question at issue of sufficient moment to warrant its exercise. This naturally gives him a degree of weight not enjoyed by any other minister, but a wise prime minister does not often invoke his supreme authority, and as regards all ordinary acts of administration is content to abide by the judgment of his colleagues.

The office of prime minister is conferred by the governor-general, who upon the resignation of his advisers 'sends for' —in theory, whomsoever he pleases—in practice for the recognized leader of the opposition in parliament, and entrusts him with the formation of a new administration. The person to whom this duty is confided confers with the leading members of his political party, and when ready submits the names of his proposed colleagues to the governor-general, who signifies his approval of the arrangements. Thereupon the ministry is formed. Such of the members designated as do not belong to the Privy Council are then sworn of that

[1] R. S. C., chapter 4, section 4, subsection 2, provides that 'The Member of the King's Privy Council holding the recognised position of First Minister shall receive in addition [to his salary as minister] five thousand dollars per annum.'

body, after which each one is appointed by commission under the great seal to the portfolio assigned to him. Before assuming charge of his department the newly appointed minister takes the oath of office in the presence of the governor-general. Should the person commissioned by the governor-general to form a ministry fail in the task, he so acquaints His Excellency, who thereupon invites suggestions as to whom he should call upon, or seeks advice elsewhere.

During the interval between the resignation of one administration and the assumption of office by another, the outgoing ministers, though no longer in a position to advise the crown collectively, continue to discharge their ministerial functions as heads of departments until their successors are appointed.

For a considerable period in the history of Canada the office of prime minister was not in reality held by one person, but might almost be said to have been in commission. From the union of the two Canadas in 1841 down to Confederation, if the leader of the government were from Upper Canada, his most influential French-Canadian colleague shared with him the authority and prestige of the first minister. If, on the other hand, the leader came from Lower Canada, his English lieutenant was associated with him in the office of chief adviser of the crown. Thus there was successively the La Fontaine-Baldwin, the Hincks-Morin, the Macdonald-Cartier, the Brown-Dorion, the Macdonald-Sicotte, and the Taché-Macdonald administrations. So unsatisfactory was this felt to be that, when entrusting Sir John Macdonald with the formation of the first Dominion ministry, the governor-general deemed it necessary to observe to him: 'In authorizing you to undertake the duty of forming an administration for the Dominion of Canada, I desire to express my strong opinion that in future it shall be distinctly understood that the position of First Minister shall be held by *one* person, who shall be responsible to the governor-general for the appointment of the other ministers, and that the system of dual First Ministers, which has hitherto prevailed, shall be put an end to.' And this was done.

The governor-general selects his prime minister, and the

prime minister selects his colleagues. Both constitutionally have entire freedom of choice, yet both are circumscribed in its exercise. For, as the governor-general is virtually restricted in his choice of a chief adviser to the leader of the opposition or to the person whom that gentleman may recommend, the prime minister, in turn, is limited in the formation of his cabinet by various considerations, one being that his new colleagues must be members of one or other branch of the legislature, and must also be acceptable to the House of Commons, or more particularly to the members coming from the province which they are to represent in the cabinet. It is also extremely desirable that a cabinet minister should be *persona grata* with, or at least not personally objectionable to, the governor-general, for although the constitutional obligations of his office might require a governor to subordinate his own feelings, even in such a case, to the exigencies of the public service, those exigencies must surely be grave which would justify a prime minister in forcing upon the representative of the crown as a confidential adviser one with whom, for one reason or another, all personal relations might be distasteful, if not impossible.

While all appointments under the crown are made on the advice of the cabinet, certain high positions are, by custom and common consent, held to be peculiarly in the gift of the prime minister. Chief among these are the offices of cabinet minister, lieutenant-governor, privy councillor, the speaker of the Senate, and chief justices of all courts. The clerks of the Senate and House of Commons, the sergeant-at-arms and other crown officers of the upper and lower houses, the librarians of parliament, members of the Treasury Board and of the Committee of Internal Economy of the House of Commons, likewise are made on his recommendation. To him also belongs the special right of advising the crown in respect of the convocation and prorogation of parliament, as well as the dissolution of the House of Commons.

In filling the higher offices of state—as, for example, lieutenant-governorships—it is customary for the prime minister to acquaint the governor-general, in advance of the formal minute of council, with the name of the person whom it

is intended to recommend, together with a few particulars not contained in the official submission, indicating his fitness for the position. This is done as a matter of courtesy, in order that the governor-general may know something beforehand of the person whose appointment he is to be asked to sanction.

Though on all important questions of public policy the prime minister is the intermediary between the crown and the cabinet, individual ministers have the right, as privy councillors, to communicate directly with the governor-general in respect of matters pertaining to their several departments. It is now proposed to consider these departments somewhat in detail.

The President of the Privy Council

The president of the king's Privy Council for Canada, like all political heads of departments, is appointed by commission under the great seal, and holds office during pleasure. There is no direct parliamentary creation of this portfolio, nor of the Privy Council office over which the president has charge, which therefore, strictly speaking, is not a department of state, though for practical purposes accounted as such. The principal duty of the president is to preside at cabinet councils, of which, when present, he and not the prime minister is chairman. The latter, as has been said, enjoys on such occasions no formal pre-eminence over his colleagues. In the present cabinet (1912) the prime minister is the president of the council, but such has not always been the case. Sir John Macdonald successively united several portfolios with the office of first minister, and at the time of his death was minister of Railways and Canals. Alexander Mackenzie was minister of Public Works during the whole course of his premiership. Sir John Thompson was minister of Justice; Sir Charles Tupper secretary of state. In the earlier years of Confederation the presidency of the council was generally filled by the junior minister, and, with the exception of a few months in 1877, during which Edward Blake held the portfolio, this continued to be the rule until 1883,

when Sir John Macdonald took the office of president, which in 1889 he relinquished for the portfolio of Railways and Canals. In 1891 Sir John Abbott, and in 1894 Sir Mackenzie Bowell, held the presidency of the council in conjunction with the premiership, and their example was followed in 1896 by Sir Wilfrid Laurier, whose long tenure of the position almost identified it in the public mind with that of first minister, from which, however, it is distinct.

Business of the various departments requiring the sanction of the governor in council comes before that body in the form of reports from the minister at the head of the department concerned, addressed 'To His Excellency the Governor-General in Council.' These reports are laid before the council for consideration. Such of them as relate to matters of finance, revenue, expenditure, including appointments to the civil service and promotions therein, are referred, without alteration, by the president to the Treasury Board, a body whose functions will be explained later. The remaining reports are minuted in the Privy Council office, that is to say, while preserving their substance, they are so changed in form as to become reports of the cabinet, or rather of the committee of the Privy Council, as the cabinet is always officially styled. In this form they are known as minutes of council. At cabinet meetings these minutes are read one by one by the president, who signs each minute as it is agreed to. The minutes passed at a sitting are combined to form one report, which is entitled 'Report of a Committee of the Privy Council on matters of state referred for their consideration by Your Excellency's command.' This report is submitted by the president to the governor-general, who approves each minute separately by writing thereon the word 'approved,' followed by his name and the date, and returns them to the president. They are thence correctly known as approved minutes of council, or, in general parlance, 'orders-in-council,' though there may be nothing mandatory about them.

In certain cases corresponding to those which in England call for action by the Privy Council, such as the carrying into effect of statutory provisions, the cabinet passes what are rightly designated 'orders-in-council.' Any issue of

the *Canada Gazette*, taken at random, contains several such orders-in-council. One amends the regulations governing the administration of timber lands within the Rocky Mountains. Another establishes certain standards of quality for beverages and fruit juices. A third disallows an act of a provincial legislature. A fourth directs the issue of a proclamation fixing a public holiday. A fifth approves a seal of office.

In their original form all these are reports to the governor-general in council from ministers at the heads of departments. As such they reach the Privy Council office, where, instead of being turned into minutes, they are given a mandatory form.

When a minute or order-in-council is passed, that is, when it is approved by the governor-general, a copy, certified by the clerk of the Privy Council, is sent with all convenient speed to the department especially concerned, and if the subject-matter in any way relates to the payment of money a second copy is supplied to the auditor-general.

Cabinet meetings are held with greater or less frequency according to the requirements of public business. During the session of parliament a meeting is called for every day on which the house sits, in order to enable ministers to talk over the order paper and agree upon their course of procedure in parliament. On Saturdays during session the cabinet generally sits all day, disposing of departmental business which has accumulated through the week. During the summer months the cabinet meetings are shorter and less frequent, but with the approach of autumn and a new session they increase in number and in length. Any member of the cabinet can cause a meeting of the council to be summoned by instructing the clerk to that effect.

Apart from presiding over cabinet meetings, the president's duties, as president, are largely nominal, though he may be assigned other functions by the governor in council. The permanent head of the council office is styled the clerk of the Privy Council. He ranks as a deputy head of a department, or, rather, before all deputy heads. There is an assistant clerk of the council and a staff of thirteen clerks.

The Minister of Finance

Unlike the practice which obtains in England, where the official status of a cabinet minister is determined by the office he holds, Canadian ministers of the crown take rank according to their individual seniority on the roll of the Privy Council, irrespective of the portfolios assigned to them. Thus the minister of Justice might be the senior privy councillor in the cabinet, in which case he would take precedence of all his colleagues, while his successor in that office, if but recently sworn of the Privy Council, might be the junior at the council board.

Although this order is observed in Canada on all ceremonial occasions, the rule otherwise finds an exception in the person of the minister of Finance, who, irrespective of his seniority as a privy councillor, is, as regards weight and influence, generally looked upon as second only to the prime minister. This is illustrated in the House of Commons, in which assembly he sits on the prime minister's right hand, and, in the absence of the latter, leads the house—marks of deference which are partly accounted for when his relation towards that body is understood.

The minister of Finance and receiver-general—to give him his full title—is the member of the cabinet primarily responsible to parliament for the finances of the country—a matter always of special concern to the House of Commons. He has the principal voice in the imposition and regulation of taxation. He negotiates the loans from time to time required for the public service. He largely controls the expenditures. It is his business to ask parliament to vote the amounts necessary to the carrying on of the government. Nor is his influence in fiscal matters confined to the House of Commons. It is felt in every branch of the executive government, and is a potent factor in the council chamber itself, where he sometimes discharges the not altogether agreeable duty of criticizing and, it may be, of opposing such projects of his colleagues as would involve a larger expenditure than, in his judgment, the resources of the country should be called upon to bear.

Some weeks before parliament meets, estimates of the sums needed for the services of the ensuing year are submitted by the various departments to the minister of Finance, who lays them before the cabinet, where they are discussed item by item. In these discussions the minister fills the rôle of a censor, with a view to curtailing, as far as may be consistent with the requirements of the public service, the demands of his colleagues upon the Treasury.

The estimates, when finally agreed upon, are brought down to the House of Commons by message from the governor-general, without whose authority no measure involving any charge upon the people can be received or considered. This message is presented by the minister of Finance, who moves that it and the estimates be referred to the Committee of Supply. Parliament votes the money in the form of a grant to the sovereign. When the royal assent is given to the Supply Bill, a minute of the Privy Council is passed, on the recommendation of the minister of Finance, by which the governor-general, as the representative of the crown, 'releases' these supplies, placing them at the disposal of the several departments. When a department wishes to draw upon any special vote, the deputy minister asks the auditor-general for a credit on any of the banks in which public moneys are kept. These credits are issued by the minister of Finance on the application of the auditor-general, who first satisfies himself that parliament has provided the money, and that the amount asked for is not in excess of the appropriation. The advances are subsequently recouped to the bank by the minister of Finance. In certain circumstances, instead of a credit, cheques are issued, but in both cases it is the minister of Finance who holds the purse, and thus exercises in the manner described an effective check upon the public expenditure.

Another point of contact between the several departments and that of Finance is to be found in an officer of the minister of Finance, styled the 'accountant of contingencies,' who deals with the contingent accounts of the whole inside service. Bills for printing, stationery, telegraphing, postage, travelling expenses, extra clerks, and all manner of petty expenses,

after having been certified by the deputy head under whose authority they were incurred, are sent to the accountant of contingencies for payment.

The department of Finance was originally known as that of the inspector-general. In 1859 (by 22 Vict. cap. 14) the name was changed to its present designation. There existed in those days, and for some years after Confederation, another financial department—that of the receiver-general—which also was presided over by a minister of the crown. This office seems to have been largely a sinecure, and in 1879 was merged into that of the minister of Finance, who became, *ex officio*, receiver-general (42 Vict. cap. 7). It is in the name of the receiver-general that the government moneys are kept in the banks, and all sums from whatever source paid into the Treasury to the credit of the government are deposited to the credit of the receiver-general.

The Finance department is charged with the management of the public accounts, debts and obligations of the Dominion. It also controls the currency, including the issue and redemption of Dominion notes. This branch is managed by an officer called the 'comptroller of currency,' acting under the direction of the deputy minister of Finance.

The department also administers Government Savings Banks established at Toronto, Halifax, St John, Winnipeg, Victoria, Charlottetown and a few other places in the Maritime Provinces. These institutions (which are distinct from the Post Office Savings Banks) are in charge of a local officer called the assistant receiver-general, who, in addition to his duties as manager of these banks, is an agent of the minister of Finance for the issue and redemption of Dominion notes.

The department of Insurance is likewise under the direction of the minister of Finance, through an officer known as the superintendent of Insurance, who has the rank, and, *quoad* the administration of the Insurance Act, the powers, rights and privileges of a deputy head. The expenses of this office are met by an annual assessment upon all insurance companies doing business in Canada, in proportion to the gross premiums received in the Dominion during the previous year.

The payments connected with the maintenance of the

Ottawa branch of the Royal Mint are made by the minister of Finance.

The Treasury Board

The Treasury Board is, in law, a board appointed to act as a committee of the Privy Council, composed of the minister of Finance and any four of his colleagues in the government, nominated by the governor in council. In fact, it is a sub-committee of the cabinet, empowered to deal with such matters relating to finance, revenue and expenditure as may be referred to it by the council or to which the board may think it necessary to call the attention of the cabinet.

A report touching a matter falling under any one of the above heads, made by a minister at the head of a department to the governor in council, is, in the ordinary course, referred by the president to the Treasury Board, in order that the proper inquiries may be instituted as to whether the necessary conditions have been complied with, and everything is in regular form. The board holds its sittings in the office of the minister of Finance, who is *ex officio* chairman, the deputy minister of Finance being the secretary. A quorum of three is necessary to the dispatch of business.

When the board has duly inquired into a matter referred for its consideration and arrives at a conclusion thereon, it so reports to the governor in council, either favourably or unfavourably, as the case may be. The council, if it concur in a favourable report, adopts it as its own, and submits it for the approval of the governor-general. If the council adopt an unfavourable report, that is the end of the matter. Should the council disagree with a report of the board, whether favourable or unfavourable, it can refer it back for reconsideration.

Speaking generally, the cabinet exercises its discretion in respect of references to the Treasury Board. For instance, although it is usual to refer all appointments to office to the board, there is nothing to prevent the council from dealing with such matters, without reference to the board. On the other hand, there are certain classes of subjects, such as the

remission of duties, which the law requires that the Treasury Board must first recommend before they can be dealt with by the governor in council.

The Auditor-General

Closely associated with the Treasury Board is the auditor-general, an officer appointed by the governor in council at the instance of parliament, for the more complete examination of the public accounts, and for reporting thereon to the House of Commons. In order to ensure his independence of the executive, it is provided that he shall hold office during good behaviour, that is to say, he can be removed from his position by the governor-general only on an address of the Senate and House of Commons.

The duty of the auditor-general is to keep watch over the public expenditure, to see that no cheques issue for which there is not a direct appropriation by parliament, or without the authority of the governor in council. He is also required to satisfy himself in the case of applications for payments in respect of work done for, or material supplied to, the government, that such work has actually been performed, that such material has been furnished, and that the price charged is according to contract, or, if there be no contract, that it is fair and just. The auditor-general examines and audits the accounts of the several departments, and lays them before the House of Commons in an annual report, which is always awaited with interest by gentlemen on the left of the speaker. He reports to the governor-general in council through the minister of Finance, who also presents his reports to the House of Commons. In the event of the minister of Finance failing to do this, the auditor-general is directed by law to present them himself.

For the due exercise of his functions the auditor-general is vested with large powers. He can apply to a High Court judge for a subpoena compelling the attendance of any witness, no matter of what rank or degree. He can examine such witness on oath or affirmation. Should a witness fail, without

valid reason, to attend, or refuse to produce any document in his possession, or to be sworn, or to answer any lawful and pertinent question, he lays himself open for each failure or refusal to a fine of $100.

In cases where the auditor-general declines to sanction a payment, an appeal lies to the Treasury Board, which is constituted the judge of the sufficiency of his objections, and which can either sustain him or overrule him at its discretion.

The auditor-general's staff consists of the assistant auditor-general and about seventy clerks, controlled independently of ministerial supervision, save that it belongs to the government to vote the money necessary for the administration of the office.

For reasons of convenience the auditor-general is commonly regarded as a deputy head of a department, but there is little analogy between the two positions, either as regards the powers or the tenure of the office.

It will be seen from the foregoing that the Treasury Board and the auditor-general are highly influential institutions, occupying an important relation, not merely towards every department, but also towards all persons having financial dealings with the government. This is so clearly recognized as to have given rise to the somewhat cynical remark that the three estates of the realm in Canada are, in an ascending scale, the governor in council, the Treasury Board, and the auditor-general!

The staff of the inside service of the Finance department, exclusive of the office of the auditor-general and of the superintendent of Insurance, consists of the deputy head, the assistant deputy head and about seventy clerks.

The Minister of Justice

The minister of Justice is the chief legal adviser of the government. Among his duties are, to see that public affairs are conducted according to law; to superintend all matters connected with the administration of justice not falling

within the jurisdiction of the provincial authorities; to advise the governor-general upon all legal matters, and particularly with reference to (1) the giving or withholding of the royal assent to all bills that pass the Senate and House of Commons, (2) the exercise of the power of disallowance in regard to provincial legislation, (3) the grant or refusal of petition of right, (4) the exercise of the prerogative of mercy.

As attorney-general he advises the heads of the several departments of the government upon all matters of law connected with such departments; he is charged with the settlement and approval of all instruments that pass the great seal of Canada; and he conducts all litigation for or against the crown or any public department in respect of any subject within the authority or jurisdiction of Canada.

The responsibilities of the minister of Justice are of no ordinary character. The periodical examination of the acts of nine provincial legislatures in itself entails an enormous amount of careful work. The exercise of the pardoning power also involves much labour. Applications for clemency —as many as 1500 in one year—are received and virtually decided by him. After considering the circumstances of each case, he appends to the petition his recommendation in respect thereof, either that the unexpired portion of the convict's term be remitted and the prisoner be released from custody, or that no interference be made with the sentence—adding a brief *résumé* of the reasons which have guided him in his conclusion. The petition, with this advice, is thereupon submitted by the secretary of state to the governor-general. Upon His Excellency's approval being signified, the necessary instructions are transmitted to the officer in whose custody the prisoner is. Applications for the conditional liberation of convicts, commonly known as tickets of leave, follow a similar course.

In capital cases the minister of Justice, after reviewing the evidence and considering the report which the trial judge is required by law to furnish, submits his report to the governor-general in council. The question whether the sentence of death pronounced against the prisoner shall be set

aside or commuted, or whether the law shall be allowed to take its course, is left to the determination of the cabinet, which as a rule confirms the decision arrived at by its chief legal adviser.

The extradition of fugitive criminals is a matter which comes under the purview of the minister of Justice. A judge issues his warrant for the apprehension of a fugitive to Canada, on such evidence as seems to him sufficient, and commits the fugitive to prison. He reports the facts to the minister, who, upon the provisions of the law having been complied with, issues a warrant under his hand and seal of office, directing the gaoler who has the fugitive in charge to deliver him to the person duly authorized by the foreign state to receive him.

In the case of extradition of a Canadian fugitive from the justice of a foreign state with which there is an extradition arrangement, the minister of Justice, on the completion of certain formalities, advises the issue of a 'Warrant of Recipias,' addressed to the police officer selected for the duty, authorizing him to receive the prisoner and bring him back to Canada. This warrant is signed by the governor-general, and issued by the secretary of state under the privy seal.

Fugitive offenders coming to Canada from any other part of His Majesty's dominions are returned by warrant of the governor-general, on the advice of the minister of Justice, who also is charged with the superintendence of the penitentiaries of Canada. This branch of his department is managed by two inspectors of penitentiaries, whose annual report the minister lays before parliament.

The Dominion Police force forms another branch of the same department. This force consists of one commissioner, one inspector of police, one inspector in the secret service, one inspector in the Identification Bureau, seven sergeants and over seventy constables.

The power of disallowance of provincial legislation is exercised by the governor-general in council on the advice of the minister of Justice. In the instructions to lieutenant-governors, furnished to them on appointment, there is a clause directing that within ten days after assenting to a

bill passed by their respective legislatures, they shall send an authentic copy thereof to the secretary of state. The year within which such act may be disallowed is reckoned from the date of the receipt of the act by the secretary of state.

When exception is taken to a provincial act, the practice is for the minister of Justice to communicate to the lieutenant-governor, through the secretary of state, the grounds of his objections, and, in cases of sufficient gravity, to require an assurance that the matter complained of will be righted by the legislature within the period set for disallowance. There is always disinclination on the part of the Dominion government to invoke the power of disallowance against the provinces, and it is only in imperative cases that this extreme step is resorted to.

When disallowance is determined upon, the minister of Justice submits to the governor-general in council a recommendation to this effect, whereupon an order-in-council is passed and a copy thereof (with a certificate under the privy seal of His Excellency the governor-general testifying to the date of the original receipt of the act by him) is communicated by the secretary of state to the lieutenant-governor, whose duty it is to make the fact known by speech or message to his legislature, or by proclamation, and the act is annulled from the date of such announcement.

Judges of all courts are appointed by the governor in council on the recommendation of the minister of Justice, through whose department they are granted leave of absence from time to time, and are finally retired. The registrar and officers of the Supreme and Exchequer Courts of Canada are under his supervision.

When to these duties is added the daily task of advising the various departments of state upon a multitude of legal questions which constantly arise in the carrying on of public business, it will readily be understood that the portfolio of Justice is one of the most onerous and responsible of the cabinet offices. The staff of the inside service of the department consists of the deputy head, four legal officers (one of whom is secretary to the department), one assistant legal officer and about ten clerks.

The Solicitor-General

The solicitor-general is an officer appointed by the governor in council to assist the minister of Justice in the counsel work of his department. In practice he has a seat in parliament, and is a member of the ministry, though not of the cabinet, his position corresponding somewhat to that of a parliamentary under-secretary in England.

The Secretary of State

The ancient office of secretary of state plays an important part in the working of the Canadian constitutional system. The secretary of state is, for the public, the channel of approach to the crown and the official mouthpiece of the governor-general. In the years immediately succeeding Confederation there were two secretaries of state—one for Canada, and the other for the Provinces. In 1873 the latter department became merged in the former. The combined offices have since formed one department, presided over by the secretary of state of Canada, whose functions it is now proposed briefly to consider.

The secretary of state is the medium of communication between the government of Canada and those of the provinces. All correspondence between the two governments is conducted by him with the lieutenant-governor, to whom he stands in somewhat the same relation as the secretary of state for the Colonies does to the governor-general. He also conveys the decisions of the governor-general, in respect of all convict cases, to the sheriffs and gaolers whose duty it is to give effect thereto, and generally replies to formal communications addressed to the government.

The secretary of state is, as has been observed, the custodian of the great seal of Canada. The general rule governing the use of the great seal is that it should be put only to instruments the issue of which is authorized by statute or by the governor in council, and which bear the governor-general's signature or that of his duly authorized deputy. Commissions of appointment, Dominion land-grants, writs

of election and proclamations, are among the documents that fulfil these conditions.

The great seal of Edward VII, which is still (1912) in use, is of steel, five inches in diameter. The central figure is that of His late Majesty, seated on his throne, crowned and holding orb and sceptre. About him are displayed the shields of the four original provinces of Confederation, Ontario, Quebec, Nova Scotia and New Brunswick, and below, the shield of the United Kingdom of Great Britain and Ireland, the whole surrounded by the legend, 'Eduardus VII. D: G: Britt: Et Terrarum Transmar: Quae In Dit: Sunt Brit: Rex F. D: Ind: Imp.,' and in a segment of an inner circle under the king's feet, the words and figures 'In Canada Sigillum 1904.'

When the secretary of state leaves office he returns the great seal into the hands of the governor-general, who delivers it to his successor. On the demise of the crown, the new sovereign issues a warrant under his sign manual, authorizing the continued use of the old seal until a new one is prepared. The old seal, on being defaced, becomes, by custom, the property of the secretary of state holding office at the time of the change.

The secretary of state is also the custodian of the privy seal, which bears as a device the private arms of the governor-general encircled by his name and dignities. This seal is not bestowed on the secretary of state with any ceremony, and is left behind by the retiring governor-general. It is commonly employed to seal less important documents than those which pass the great seal, such as passports, certificates, warrants and the like; generally speaking, things done on the recommendation of one minister, as distinguished from those performed on the advice of the council, which are reserved for authentication under the great seal.

In addition to his ceremonial functions the secretary of state discharges duties of a more prosaic character. He administers the Companies Act, the Naturalization Act, the Canada Temperance Act, and is charged with all matters not specially assigned to any other minister. Addresses

and orders of the Senate and House of Commons are sent to him in the first instance. It is the duty of his officers to call upon the various departments for the information desired by parliament, to combine, in cases where an inquiry relates to more than one department, the answers received from those concerned, and to see that no unnecessary delay takes place in the bringing down of these returns.

The secretary of state is also the registrar-general, and, as such, registers all proclamations, commissions, charters, land patents, and other instruments issued under the great seal, also bonds, warrants, surrenders, and other public documents requiring registration. Patents of Dominion lands are, for reasons of convenience, recorded in the department of the Interior by officials specially authorized for that purpose under the hand and seal of the registrar-general.

The Dominion Archives (for many years a branch of the department of Agriculture) were placed under the care of the secretary of state in March 1912.

The Department of External Affairs

This department, as its name imports, administers what, for lack of a better phrase, is commonly termed the 'external affairs' of the Dominion, whether relating to the motherland, the sister dominions and colonies, or to foreign countries. The department of External Affairs dates from the year 1909, having been constituted by the act 8-9 Edw. VII, cap. 13, and placed under the direction of the secretary of state for Canada, with the title of secretary of state for External Affairs. Before its creation the impression very generally prevailed, even within the service, that Canada's external relations were conducted through the secretary of state, but such never was the case. The department of the secretary of state for Canada—to refer to the English system—offers a certain analogy to the Home Office and to the Colonial Office as well, but it bears no affinity to the Foreign Office, or to the United States department of state, for the reason that its sphere of action is circumscribed by the bounds of the Dominion. With the conduct of negotiations with foreign

countries, or in respect of questions whose scope and bearing, though within the Empire, lie beyond the limits of Canada, it has no official cognizance. All such matters reach the government of Canada through dispatches addressed to the governor-general. Under the old system these dispatches were referred by His Excellency to the Privy Council, which in turn referred them to the minister concerned, who in due course made his report thereon to the governor in council. This report was minuted in the Privy Council office, in the manner already explained, and, when approved by His Excellency the governor-general, became the government's reply to the dispatch on which it was based. This method was open to several objections. No doubt the more important questions of policy in regard to external affairs were discussed and agreed to in council, but the terms of the report in which that policy was set forth frequently received but scant consideration. In the preparation of these reports too little regard was given to what had gone before, which is not surprising, as it not infrequently happened that the draughtsman was not in possession of all the correspondence on the subject. A dispatch does not always disclose upon its face enough to determine readily from a hasty glance just what department it concerns, and the fact that it relates to more than one department might easily escape notice. Thus it became possible that a department might get the first and third dispatch of a series, while the second and fourth had been referred elsewhere. And so the feeling grew that cabinet councils were not, after all, the place for the reading and distribution of lengthy dispatches, and that this had much better be done elsewhere. The result was the establishment of the department of External Affairs.

Under the new order of things all dispatches received by the governor-general which His Excellency desires to communicate to his advisers are referred direct to the secretary of state for External Affairs, who in turn refers them to the several departments. These departments furnish him with all available information, together with the views of their head upon the subject-matter to which the dispatch relates, and, having informed himself by this means, the secretary of state

makes his report to the governor in council. In this way the responsibility for the proper conduct of this branch of the public business rests upon one department, which, free from the disadvantages of the old system, is enabled to secure for these important subjects treatment on a coherent and uniform plan.

The initiation of this reform gave rise at first to some misapprehension. When the bill creating the department of External Affairs was before parliament, the report went abroad that the Canadian government intended thereby to take into its own hands the conduct of its foreign relations. The prime minister and the secretary of state, however, made it clear to the House of Commons that no constitutional change was intended by the measure, which merely aimed at an improvement in departmental procedure, and that Canada's official communications extending beyond the bounds of the Dominion would continue to be made through His Excellency the governor-general as before.

The department of External Affairs is specially charged with all matters relating to the foreign consular service in Canada. It likewise issues passports for foreign travel.

The King's Printer

The government printing and stationery office originally formed a branch of the department of the secretary of state. In 1886 it was constituted a separate department of the public service under the control of the secretary of state. This department is charged with the execution of all printing on behalf of the government; the purchase and distribution of all paper, books or publications required for the public service; the sale of all books or publications issued by order of parliament or the government; and the audit of all accounts for advertising.

The deputy head of this department is styled the king's printer and controller of stationery. Like all deputy ministers he is appointed by commission under the great seal, and holds office during pleasure. He has the general management and control of the services mentioned above, in the performance

of which duties he is assisted by two officers, styled respectively the superintendent of printing and the superintendent of stationery. The first-named has charge of the printing branch of the department at Ottawa, in which all printing, lithographing, binding and other work of like nature required for the service of parliament and the several departments of government are executed. The superintendent of stationery has, under the direction of the king's printer, charge of the purchase and supply of paper and stationery required for the public service.

The staff of the department is composed of the above-named officers and about fifty clerks, exclusive of the journeymen, workmen, skilled hands and others engaged in mechanical service.

The Minister of Public Works

The minister of Public Works is the successor to the member of the government of the old Province of Canada known as the chief commissioner of Public Works, the change of name having taken place at Confederation. In 1879 his department was divided into two departments of equal status, under two separate ministers—one retaining the old designation of minister of Public Works, the other styled minister of Railways and Canals. At this partition the somewhat unusual course was followed by the minister of Public Works (Sir Charles Tupper) of relinquishing the old for the new portfolio, and taking with him to the new department the deputy head and many of the senior officers, as well as most, if not all, of the office records. Thus in some respects the old department became the new one, dating from October 1879.

The minister of Public Works has the management, charge and direction of the following properties belonging to the government of Canada: (1) public buildings, including their heating, lighting, maintenance, furnishing and upkeep; (2) the plant employed in the construction, improvement and repair of harbours, piers and works for the betterment of navigation; (3) the slides, dams, piles, etc., used for facilitating the transmission of timber; (4) roads and bridges;

(5) telegraph lines on government lands; and (6) certain ordnance properties.

The department of Public Works is one of the five great spending departments of the government, the others being Railways and Canals, Militia, Marine and Fisheries, and the Naval Service. The duties attaching to its administration are, by reason of their multitudinous detail, of the most exacting and laborious nature. In 1910 its expenditure was approximately $12,000,000, not composed of fairly large sums such as would be involved in the building and subsidizing of ships and railways, but for the most part made up of comparatively small sums—for the erection of a post office in one town, the purchase of a site for a customs house in another, repairs to a wharf in a third, dredging a harbour in a fourth, and so on across the continent from Halifax to Victoria.

The difficulty of applying this money to the best advantage of the public service, and at the same time of satisfying the local interests and of pleasing everybody concerned, is enough to tax the ingenuity and resources of the most capable of administrators. He who undertakes the task must be prepared to deal with very unreasonable people; to meet criticism often founded upon ignorance, sometimes intentionally unjust; to be charged with incompetence, extravagance, political favouritism, and worse; to be held accountable for mistakes he did not commit, for mishaps that could not be averted, and for accidents over which he had no control. A former minister, the Hon. Alexander Mackenzie, has left on record eloquent testimony to the embarrassments and anxieties of the position; and while in his case the difficulties were probably enhanced by the fact of his being also the prime minister, there can be little doubt that the position is one in itself demanding much aptitude for detail, combined with unlimited patience and firmness.

The staff of the department of Public Works consists of the deputy minister, assistant deputy minister, secretary of the department, chief engineer, and over two hundred engineers, architects, draughtsmen and clerks.

The Minister of Railways and Canals

It has already been observed that when in 1879 the department of Public Works was divided, the then minister elected to take the new portfolio of Railways and Canals, and that the deputy head and many of the senior officers accompanied him to his new sphere of action. It would be more accurate to say that they remained where they were, for the new department kept possession of the old ground, the department of Public Works finding other quarters.

The minister of Railways and Canals has the control and management of all government railways and canals, and of all works and property appertaining thereto. These railways comprise the Intercolonial Railway (1492 miles), the Windsor Branch, a line extending from Windsor Junction, Nova Scotia, on the Intercolonial Railway to the town of Windsor, operated by the Dominion Atlantic Railway Company (32 miles), and the Prince Edward Island Railway (267 miles)—making a total of 1791 miles. These railways, as regards their practical operation, have recently been placed under a board of management, of which the deputy minister of Railways is chairman.

The minister of Railways possesses jurisdiction over the location of all lines of railway constructed under Dominion charters. Location plans must be filed with him and receive his approval before construction can be begun.

Subsidies voted in aid of railway construction are paid through this department, which enters into contracts with the aided roads for the purpose of establishing that the conditions imposed by parliament and the governor in council are complied with before the money is paid over.

The National Transcontinental Railway is composed of two divisions, the eastern division between Moncton and Winnipeg, and the western division between Winnipeg and the Pacific Ocean. The eastern division is being constructed by the government under four commissioners appointed by the governor in council. The government supervises the building of the western division by the Grand Trunk Pacific

Railway, and the chief engineer of the department of Railways and Canals annually reports to his minister on the character and progress of the work.

Until 1903 a committee of the cabinet, styled the Railway Committee of the Privy Council, administered the Railway Act, thus exercising a certain supervision and control over all Canadian railways. Parliament then abolished this committee, and appointed in its stead a board composed of three railway commissioners (the number was afterwards increased to six). This board regulates the railways under large powers. Its decisions and orders are final, subject to an appeal to the Supreme Court on questions of law and jurisdiction, and the general authority of the governor in council in his discretion. There can be no better evidence of the growth and progress of a country than is afforded by its railway statistics. In 1879, when the department of Railways was organized, there were 6858 miles of railway in operation throughout Canada; in 1912 there were 26,000 miles.

This department also administers the canal system of the Dominion, which has a total length of 144 miles, and cost, adding together the outlay on original construction, subsequent enlargement and improvements, upwards of ninety-seven million dollars. The extent of the waterways made available by these canals for purposes of navigation is nearly 2000 miles.

The staff of the department at Ottawa consists of the deputy minister, the general consulting engineer, the secretary, chief engineer, departmental solicitor, comptroller of statistics, departmental auditor, chief daughtsman and about seventy clerks, engineers and draughtsmen.

The Minister of the Interior

In 1869 Canada acquired by purchase from the Hudson's Bay Company, for the sum of £300,000 sterling, all their interest in that vast region stretching beyond the Great Lakes westward to the Rocky Mountains, then known as Rupert's Land and the North-West Territory. The administration of these territories, together with the lands and affairs of the

Indians and the Geological Survey, were entrusted to the department of the secretary of state for the Provinces; the control of Dominion lands, ordnances and Admiralty lands being vested in the secretary of state for Canada. In 1873 an act was passed (36 Vict. cap. 4) abolishing the department of the secretary of state for the Provinces, and distributing its functions between the secretary of state for Canada and a new department, that of the Interior, to which were assigned the subjects enumerated above. Since that date the management of Indian Affairs, and of the Geological Survey, has been transferred elsewhere, but the minister of the Interior still administers the Dominion lands, including the public lands of Manitoba, Saskatchewan, Alberta and (with certain minor exceptions) all other lands owned by Canada, wherever situated within the Dominion. He also continues to control the Yukon Territory, which was constituted a separate territory by the act of 1898, 61 Vict. cap. 6, as amended by the act of 1901, 1 Edw. VII, cap. 42, and the 'North-West Territories,' by which is now meant all British possessions in North America outside the Canadian provinces and Newfoundland, including those vast regions formerly known as Athabaska, Mackenzie, Keewatin, Franklin and Ungava, and beyond to the North Pole. The chief executive officers of the Yukon and the North-West Territories are styled commissioners of their respective territories. They are appointed by the governor in council, and act under instructions of the minister of the Interior.

The department of the Interior affords, perhaps, the most striking illustration of the Dominion's wonderful growth that is to be found in the official records. Starting with a staff of thirty-eight clerks, its employees of the inside service numbered in 1912 considerably more than twice that of the whole civil service of Canada at Ottawa in 1873. In 1874 it received and dispatched altogether about 7500 letters, and collected from the sale of Dominion lands $27,000. In 1910 it had a total correspondence of considerably over 2,000,000 letters, while the revenue derived from the sale of Dominion lands was more than $3,000,000. The number of homestead entries rose from about 500 in 1875 to 41,500 in 1910. This is, in fact, the chief business of the department. Canada

possesses all the requisites of a great and prosperous country, save only people. Her vast and fertile plains could maintain a hundredfold the number that to-day dwells within her borders. Population is the great desideratum. To procure these people is the special function of the department of the Interior. To this end an organized system has been developed with the object of making the attractions of Canada widely known, and of inducing emigrants to try their fortune in the Dominion. A farm of 160 acres of the finest wheat-producing land in the world, free, on condition of residing on it for three years and of doing just enough in the way of cultivation to evidence the bona fides of the settlers, together with an adjoining 160 acres as a pre-emption in certain districts, at $3 an acre, is surely an offer that only requires to be known to be appreciated.

In pursuance of this paramount object of attracting suitable emigrants there is, first, a branch of the department devoted to surveying and mapping out the public lands for settlement. Another branch grants homestead entries for these lands. A third conducts an emigration propaganda in Great Britain and abroad. There are many other subdivisions of this large department, each charged with the duty of administering some special portion of the national domain. Thus there are branches dealing with timber and grazing, mining, ordnance and Admiralty lands; with forestry and irrigation; with the school lands, the lands reserved for purposes of education, the interest on the proceeds of the sale of which is paid over to the three provinces of Manitoba, Saskatchewan and Alberta. There are also special officers charged with the inspection of ranches, the care of the Canadian national parks, the technical cartographic work of the department, and, lastly, there is the Dominion Observatory, a new and thoroughly equipped temple of science, which, under the efficient direction of the chief astronomer and a small staff of highly trained assistants, is rapidly becoming well known in the scientific world.

The staff of the department at Ottawa consists of the deputy head, the assistant deputy head, surveyor-general, Dominion lands commissioner, superintendent of immigration,

secretary of the department, chief astronomer, chief geographer, 10 chiefs of branches and about 750 clerks and messengers. The outside service is composed of about 380 persons employed in the Dominion Lands and Crown Timber Agencies, 470 engaged in immigration work, 20 connected with the national parks, 40 with forestry, 16 with irrigation surveys, 25 with the administration of the Yukon Territory, making a grand total in the service of the department of about 1700 persons. The immigration agents in the United Kingdom and at Antwerp report to the assistant superintendent of emigration in London, who in turn reports to the high commissioner for Canada.

The Department of Indian Affairs

The department of Indian Affairs was originally under military control, being administered by the commander of the forces, the officers in command at various points acting as superintendents or agents. About the year 1844 it was placed under the charge of the governor-general's civil secretary, who held a commission under the imperial government as superintendent-general. In 1860 it passed under the Crown Lands department. At Confederation it became attached to the department of the secretary of state for Canada, to be transferred by order-in-council in 1869 to the secretary of state for the Provinces. In 1873 it was placed under the department of the Interior, and in 1880 (43 Vict. cap. 28) was constituted a separate department under the control of the superintendent-general of Indian Affairs, who, the act declared, was to be the minister of the Interior. The latter provision was afterwards modified to include any minister appointed by the governor in council. As a matter of fact, the minister of the Interior has always been the superintendent-general, except during the period 1883-87, when Sir John Macdonald held the office in conjunction with the presidency of the Privy Council.

The superintendent-general has the charge and direction of Indian Affairs, including the control and management of the lands and properties of the Indians in Canada. The

government, from a very early period, recognized the obligation devolving upon it in respect of the aboriginal inhabitants of the country. In the Province of Ontario treaties were made from time to time, whereby the Indians surrendered whatever usufructuary right they possessed in the land over which they roamed, generally in consideration of the grant or reservation for their exclusive benefit of defined areas, and of the payment of small annuities. The same policy prevailed in the North-West, and, to a limited extent, on Vancouver Island. In the Provinces of Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and the mainland of British Columbia no treaties were made with the Indians for the extinguishment of the Indian title, but reserves were set aside by these provinces to meet the requirements of the Indians. Under the provisions of the Indian Act the land comprised within these reserves cannot be alienated without the consent of the Indians. It is the duty of the superintendent-general to protect the reserves from trespass, to prevent the sale of intoxicants to Indians, to see that their trust funds are properly administered, to provide them with the necessary schools, and to assist them to become self-supporting and law-abiding members of the community. The government spends on Indian education nearly half a million dollars annually. At the close of the last fiscal year the capital held in trust for the different bands amounted to over six million dollars, the interest on which is distributed among them periodically. The Indian population of Canada is approximately 107,000, and is not decreasing. The Indians are subject to the operation of the ordinary law, both civil and criminal, except in so far as the Indian Act makes special provision for their exemption. They are, as a class, law-abiding.

The organization of the department of Indian Affairs follows that of the Interior, the nomenclature of the branches being much the same. Thus there are, besides the secretary's branch and the accountant's branch, which are common to all departments, the land and timber branch, the survey branch and the school branch. The staff of the department at Ottawa consists of the deputy superintendent-general, the

assistant deputy superintendent-general, who is also the secretary of the department, the Indian commissioner (who was for many years at Regina, afterwards at Winnipeg, and since 1908 at headquarters), five heads of branches, and about sixty inspectors, surveyors, draughtsmen and clerks.

The Minister of Agriculture

The department of Agriculture was created by act of the parliament of Canada in 1868, and charged with a variety of subjects having but little connection with the ancient and honourable calling from which it derived its name. Besides agriculture, the minister was given control of immigration, public health and quarantine, arts and manufactures, the census and statistics, copyright, patents of invention, trade marks; and, as if this were not enough, he at an early period assumed the care of the archives, which he retained until 1912.

In the early years of the department its most active branch appears to have been that devoted to immigration. This work is no longer under the minister of Agriculture, having been transferred to the department of the Interior in 1892. A good deal of attention was also paid to measures for the prevention of contagious diseases among animals. Later on quarantine stations were established, but for a long time after its inception the department had but little direct concern with agriculture. Indeed, it was not until nearly twenty years had passed that the establishment of the system of experimental farms (1887) gave the first impetus in that direction. The venture proved highly successful, and to-day these farms and the smaller experimental stations throughout the country are proving of great educational value to the farmers of Canada.

Once started, the growth of the department on its agricultural side has gone on apace. The dairy and cold storage branch, the system of fruit inspection, the seed commissioner's branch, the live stock branch, the health of animals branch, the horticultural branch, the facilities afforded for the practical study of botany, entomology and kindred sciences, are all evidence of the excellent character of the work of educating

the farmer, which, begun by Sir John Carling, has been developed and extended under his successors.

Nor has the success which has attended the administration of the department been confined to agriculture and its allied subjects. The patents, copyright, trade marks, and industrial designs branches give their testimony to the enormous strides the Dominion is making from year to year; while if much is not heard of the public health and the quarantine division, it is only because its results are negative rather than positive in their nature. The less one hears of the director of public health, the greater the excellence of the work that officer is quietly and unostentatiously carrying on.

The staff of the department of Agriculture consists of the deputy minister (who is also the deputy commissioner of patents), the assistant deputy minister (who is also the secretary of the department), the director-general of public health, the director of experimental farms, the chief officer of the census and statistics, the veterinary director-general and live stock commissioner, the dairy and cold storage commissioner, the seed commissioner, the registrar of trade marks and copyrights, and about two hundred and forty chiefs, superintendents, technical officers and clerks.

The Dominion Archives

The first move in the direction of establishing an Archives and Record Office was made in 1872, when parliament placed the sum of $4000 at the disposal of the minister of Agriculture for the purpose. The minister of the day entrusted an official of his department with this duty, but that officer, while amply qualified for the post, was not provided with proper facilities for its administration. The position of archivist was not even created by the governor in council. For years Douglas Brymer laboured in the basement of the Western Block, doing, in spite of his limitations, excellent work, as his published reports abundantly show. Not only were his merits and services inadequately recognized, but rival collections of public records were suffered to grow up in the service. The department of the secretary of state possessed a somewhat similar

store of documents to that of the Archives, under the immediate charge of an officer known as 'the keeper of the records.' The Privy Council office likewise contained an accumulation of 'State Papers' reaching back one hundred and fifty years. These several branches of the public service, though ostensibly devoted to the promotion of a common object, for years carried on a sort of triangular contest, each claiming to be the only true repository of the country's records. To such lengths was this unseemly strife conducted that copies of documents in the libraries of European capitals have been made for the Canadian Archives, at the public expense, when the originals of these very documents, in an excellent state of preservation, were all the time in one or other of the public departments at Ottawa.

On February 7, 1897, a portion of the Western Block was seriously damaged by fire, which destroyed many departmental records, the chief sufferers being the departments of Marine and Fisheries, and Militia. Shortly afterwards the government appointed a commission, consisting of the deputy minister of Finance, the auditor-general and the under-secretary of state, to inquire into and report upon the state of public records. This commission, in the exercise of its duty, made an inspection of all the departments, and reported in due course. After sending out the result of their investigations they recommended that the older and more valuable papers, including the archives in the department of Agriculture, should be brought together and committed to the custody of one person in a suitable fireproof building, where also antiquated departmental records might be stored. Effect was given to this recommendation in 1903. In 1904 Arthur G. Doughty was appointed archivist and keeper of the records, and the Archives building was completed in 1907. The Archives continued as a branch of the department of Agriculture until 1912, when, in virtue of the Public Archives Act of that year, it was transferred by order-in-council to the department of the secretary of state, and the archivist was raised to the rank of a deputy minister.

The Postmaster-General

The Post Office department, as a Canadian institution, dates from the year 1851, when the control of the postal service was transferred to the Canadian government by the imperial authorities, who up to that date had administered the postal affairs of all British North America.

The first postmaster-general after the transfer at once entered the government, and since then the office has always been one of cabinet rank. The duties of postmaster-general are such as the title of the office imports, and include the regulation from Ottawa of the postal arrangements in every province, city, town and hamlet in the Dominion. As might be surmised from the character of the service, the postmaster-general is vested with large powers. He makes all sorts of regulations, restrictions and prohibitions respecting the carriage of letters and newspapers. He enters into and enforces contracts relating to the conveyance of the mails. With the exception of the postmasters in cities and towns, he appoints all the postmasters in the Dominion.

At the head of this extensive system stands the deputy postmaster-general, who, under the minister, controls the manifold services of which both the inside and outside divisions of the department are composed. For purposes of administration the department at Ottawa is divided into branches, each under the immediate charge of a superintendent. Thus there are the railway mail service, the mail contract branch, the savings bank branch, the money order branch, the dead letter branch, etc. As regards the outside service, the Dominion is partitioned into seventeen divisions, each with an inspector of its own, and a chief superintendent over all.

With certain limited exceptions, dictated by common sense, the postmaster-general has the sole and exclusive privilege of collecting, sending and delivering letters within Canada, and any person who unlawfully invades his functions in this respect is liable to a fine of $20 for each and every letter illegally conveyed. The growth of the business of this

department has been phenomenal. The number of letters posted in Canada in 1910 amounted to the enormous total of 526,000,000 as compared with 41,000,000 in 1876, and it is most gratifying to note that there was a surplus from the operations of the department in the former year of nearly $750,000.

In 1911 the departmental staff at Ottawa consisted of the deputy postmaster-general, the assistant deputy minister, the secretary of the department, 11 heads of branches, 382 clerks, 23 sorters, 20 packers, 18 messengers, and 3 porters—460 persons.

The Minister of Marine and Fisheries

The list of duties devolving upon the minister of Marine and Fisheries by statute is of formidable length, no fewer than twenty-five subjects being placed under his control. Originally considerable, the list has grown by accretion, notably in 1904, when the management of the St Lawrence Ship Canal, together with the dredging plant, was transferred from the department of Public Works, as well as the hydrographic survey, both of that department and of that of Railways and Canals. Briefly to summarize his functions, the minister of Marine and Fisheries supervises the construction of lighthouses and fog alarms; maintains lights, buoys and other aids to navigation; regulates marine hospitals, the inspection of steamboats, the examination of masters and mates, pilotage, and inquires into wrecks. In addition he exercises such jurisdiction as is vested in the Dominion government over the seacoast and inland fisheries of the Dominion. The two main divisions of his department are (1) the Marine branch and (2) the Fisheries branch. The latter formed a separate department from 1884 to 1891, when the two were reunited and became one department again.

In the nature of things the sphere of the Marine department's activities lies chiefly along the seaboard and the main arteries of navigation. It has agencies at all the principal maritime towns, including Quebec and Montreal, where the local administration is carried on under the control of the

department at Ottawa. It is under these local agencies that lighthouses are built and equipped, that new aids to navigation are installed and maintained, and that the government steamers are repaired and outfitted.

The Fisheries branch administers what is undoubtedly one of the greatest assets of the Dominion. Few persons realize the immense worth of Canada's fisheries, which are not only the most extensive but also the most abundantly stocked waters in the world. In 1910 Canadian fishermen drew from the riches of the sea $30,000,000. As in the case of Marine affairs, the business of the Fisheries branch is largely carried on by the outside service, there being in 1910 about twenty inspectors of fisheries throughout the Dominion, upwards of one hundred and seventy-five fishery overseers, and about forty officers in charge of government fish hatcheries.

The line of division between Dominion and provincial jurisdiction in the matter of the fisheries has never been clearly defined. In 1896 the question was referred to the Judicial Committee of the Privy Council, which in 1898 decided that whatever property interest in its fisheries was possessed by a province prior to Confederation remained vested in it, but that the *regulation* of these fisheries appertained to the Dominion government. As regards inland waters this decision settled the question, and since 1898 the Provinces of Quebec and Ontario have issued all fishery licences in non-tidal waters, the making and enforcing of the regulations governing the times and methods of fishing remaining with the Dominion. With respect to tidal waters, however, the controversy is still undecided, the position of the Dominion in regard to them being that in these waters there was no ownership at any time, but only jurisdiction, and that this jurisdiction, originally exercised by the colonial government, is now vested in the governor-general of Canada as representing the king, and not in the province. The matter remains in this unsatisfactory condition. An arrangement has, however, been reached with the government of British Columbia, to submit a reference to the Supreme Court of Canada, with a view to settling the question of jurisdiction in tidal waters.

The staff of the department at Ottawa is composed of the deputy minister, assistant deputy minister, chief engineer, chief hydrographer, purchasing agent, commissioner of fisheries, various superintendents, engineers, inspectors, technical officers, and about one hundred clerks.

The Department of the Naval Service

In pursuance of the declared policy of the government to establish and maintain a Canadian navy, an act was passed by parliament in the session of 1910 (9-10 Edw. VII, cap. 43) providing, among other things, for the constitution of a department with the above title, presided over by the minister of Marine and Fisheries with the title of minister of the Naval Service. The new department was formed out of the department of Marine and Fisheries. The deputy minister of the latter, following the precedent set by the deputy minister of Public Works in 1879, relinquished the old office for the new. The director of the Naval Service, who is the next officer to the deputy head, was also transferred from the department of Marine and Fisheries, from which indeed the majority of the staff were in the first instance recruited.

The department of the Naval Service has the control and management of naval affairs, including the construction, purchase, maintenance and repair of all ships of war. The phrase 'Naval Service' is held to embrace the fisheries protection service, the hydrographic survey, tidal observations and wireless telegraph service, transferred from the department of Marine and Fisheries.

The statute creating the department of the Naval Service provides for the appointment of a naval board to advise the minister, but so far no such board has been organized.

The Minister of Customs

The functions of the minister of Customs are complementary to those of his colleague the minister of Finance. The latter, subject to the authority of parliament, determines what import duties shall be levied on goods brought

into the country, and the minister of Customs collects these duties.

The law provides that the master of every vessel entering any port in Canada shall proceed, without delay, to the customs house for the port, and there make a report in writing of the arrival of such vessel, giving full particulars of everything on board. In like manner no vessel can leave port without a clearance from the collector of customs. The collector of customs collects the duty on the goods thus imported, and deposits it in a duly authorized bank to the credit of the minister of Finance, where it forms part of the Consolidated Revenue Fund of Canada.

The collectors are assisted by a staff of officials varying in number with the size and importance of the port. There are sub-collectors, appraisers, preventive officers, examining officers, landing waiters and gaugers, besides the necessary number of clerks. Their duty is to ensure an honest collection of the revenue.

There is a Board of Customs which sits at Ottawa, under the chairmanship of the commissioner (who is the deputy head of the department). It is the duty of this board to interpret difficult points in connection with the tariff, and also to hear and decide appeals from the decisions of collectors and appraisers. The minister of Customs has the power under the act to make refunds of duties overpaid, or paid in mistake, at his discretion, but he has no authority to remit duties payable by law. Such remission can only be made by the governor in council, upon the recommendation of the Treasury Board.

The bonding system at present existing between the United States and Canada appears to have had its origin and early growth in reciprocal arrangements between the two countries providing for the passing and repassing of the frontier by traders and Indians of both countries. The completion of the canal system of Canada in 1845, and the opening of the Grand Trunk Railway to Portland in 1853, demonstrated to both peoples that the shortest, cheapest and most convenient transport routes could only be secured by using both countries. On December 4, 1856, the Canadian

government passed an order-in-council providing for the free transit of goods by railway through Canada, from points in the United States to other points in the same country. Reciprocal action was taken by the Congress of the United States, which on July 28, 1866, enacted, *mutatis mutandis*, the same provisions. Both the order-in-council and the act of Congress have since been amended in detail, but remain the fundamental authority for the bonding arrangements at present in force. The latest agreement between Canada and the United States regarding transit in bond is under the Treaty of Washington, 1871, articles xxix and xxx.

The inside service of the department of Customs consists of the deputy head, who, as has been said, is styled the commissioner, the assistant commissioner, the chief Dominion appraiser, the analyst, and about one hundred and seventy officers and clerks. The portfolio of Customs was abolished and the office of controller of customs created in 1892, by virtue of an act passed in 1887 (50-51 Vict. cap. 11). The controller was a member of the ministry, but not of the cabinet, his department being placed under the supervision and control of the minister of Trade and Commerce. The controllership of customs was in turn abolished by an act of 1897 (60-61 Vict. cap. 18), which revived the office of minister of Customs.

The Minister of Trade and Commerce

The act of 1887 establishing the department of Trade and Commerce (50-51 Vict. cap. 10) contains a proviso that it should only come into effect by proclamation. Sir John Macdonald, in whose administration the act was passed, never saw fit to inaugurate the system contemplated by it, and it was not until Sir John Thompson became premier that the statute of 1887 was brought into effect, from December 3, 1892.

The duties and powers of the department were not precisely defined at the outset. It was vested with jurisdiction over such matters of trade and commerce 'as are not by

law assigned to any other department of the government of Canada.' To this day, although the department has developed along lines of its own, it is not always easy for an outsider to differentiate what may be called its statistical trade functions from those of the department of Customs.

The chief concern of the department of Trade and Commerce is the extension of Canada's external trade, with the United Kingdom, the sister dominions and colonies, and also with foreign countries. To this end it established many years ago a service of trade commissioners in various parts of the world, whose duty it is to take measures for the development of Canadian commerce abroad. The reports of these commissioners are published weekly by the department and circulated all over Canada, to the great advantage of the business community. The minister of Trade and Commerce also administers the Inspection and Sale Act, with the exception of those portions with which the minister of Agriculture is charged, the Manitoba Grain (Inspection) Act, the Chinese Immigration Act, the Government Annuities Act and the Cullers Act.

An important division of the department of Trade and Commerce is the Annuities branch, established in 1908 by Sir Richard Cartwright, with a view to promote habits of thrift, to encourage the people of Canada to make provision for their old age, and to facilitate their doing so. This scheme possesses the great advantage of affording absolute security at the lowest possible cost. All that an intending participant has to do is to remit, from time to time, direct to the department at Ottawa, such amounts as he can spare for the purpose, or, if he prefer to do so, he can deposit the same to the credit of the receiver-general in any money order office. Upon these amounts four per cent compound interest is allowed, and at the age of fifty-five (which is the earliest age at which an annuity can begin), or at any later date desired, such annuity as the total amount then at his credit will purchase will be paid to him quarterly so long as he may live. No charge is made for expenses of administration. The minimum amount of annuity which may be purchased is $50 and the maximum $600. The earliest age at

which the purchase may begin is five. To each purchaser a contract or policy is issued, and a provident feature of the system is that there are no penalties or forfeitures. If payments should for any reason lapse, they may be renewed at any time; but even if arrears are not made up, the only effect will be that a smaller annuity will be secured. In 1911 1700 persons had availed themselves of the provisions of the act, and over $860,000 had been paid in purchase money. The average amount of annuity aimed at was $250. Every class of the community may be said to be purchasing annuities.

The present deputy minister of Trade and Commerce is the chief controller of Chinese immigration, and has charge of the statute relating thereto (R. S. C., cap. 95). The main feature of this act is the provision requiring every person of Chinese origin, irrespective of allegiance, to pay a head-tax of $500 on entering Canada.[1]

The staff of the inside service of the department proper consists of the deputy head, chief assistant and accountant, chief trade statistician, chief grain statistician, the superintendent of annuities and about twenty-five clerks.

The Department of Mines

This department, established in 1907, consists of two branches—the Mines branch and the Geological Survey, under the control of the minister of Mines, who in 1912 was the minister of Inland Revenue.

The functions of the Mines branch are defined by statute to be:

(*a*) The collection and publication of full statistics of the mineral production and of the mining and metallurgical industries of Canada, and such data regarding the economic minerals of Canada as relate to the processes and activities connected with their utilization, and the collection and preservation of all available records of mines and mining works in Canada;

(*b*) The making of detailed investigations of mining camps and areas containing economic minerals or

[1] See 'Immigration and Population' in this section.

deposits of other economic substances, for the purpose of determining the mode of occurrence, and the extent and character of the ore-bodies and deposits of the economic minerals or other economic substances ;

(*c*) The preparation and publication of such maps, plans, sections, diagrams, drawings and illustrations as are necessary to elucidate the reports issued by the Mines branch ;

(*d*) The making of such chemical, mechanical, and metallurgical investigations as are found expedient to aid the mining and metallurgical industry of Canada ;

(*e*) The collection, and preparation for exhibition in the Museum, of specimens of the different ores and associated rocks and minerals of Canada, and such other materials as are necessary to afford an accurate exhibit of the mining and metallurgical resources and industries of Canada.

The functions of the Geological Survey are :

(*a*) To make a full and scientific examination and survey of the geological structure and mineralogy of Canada ; to collect, classify and arrange for exhibition in the Victoria Memorial Museum, such specimens as are necessary to afford a complete and exact knowledge of the geology, mineralogy, palæontology, ethnology, and fauna and flora of Canada ;

(*b*) To study and report upon the facts relating to water supply for irrigation and for domestic purposes, and to collect and preserve all available records of artesian or other wells ;

(*c*) To map the forest areas of Canada, and to make and report upon investigations useful to the preservation of the forest resources of Canada ;

(*d*) To prepare and publish such maps, plans, sections, diagrams, and drawings as are necessary to illustrate and elucidate the reports of surveys and investigations ;

(*e*) To carry on ethnological and palæontological investigations.

While the Mines branch is a new creation, the Geological Survey, on the other hand, is one of Canada's oldest institutions. In 1842 Sir Charles Bagot, at that time governor-

general, recommended to the secretary of state for the Colonies that a Geological Survey of Canada should be begun. The colonial secretary, Lord Stanley, fell in with the suggestion and placed the matter in the hands of Sir William Logan. The provincial legislature voted £500 towards the new undertaking, and work was begun in 1843. Sir William Logan filled the position of director from 1842 to 1869, when ill-health compelled his resignation. He, however, continued to act as supervising head until a short time before his death in 1875.

In those days the Geological Survey was not connected with any department of the government, its director reporting direct to the governor-general. This system continued until the resignation of Sir William Logan, when an order-in-council placed the Survey under the control of the secretary of state for the Provinces, where it remained until transferred to the department of the Interior on the formation of the latter department in 1873.

Originally and for many years the headquarters of the Geological Survey were in Montreal. In 1881 the Survey was removed to Ottawa. In 1890 it became a separate department, and continued so until 1907, when it was merged in that of Mines. The officer in charge of the Survey is, and always has been, even when he presided over the department as its deputy head, known as the 'director.' He is assisted by a number of trained geologists, botanists, naturalists and other men of science, who, with the patience, industry and zeal characteristic of their class, are striving to interpret the secrets of nature.

The Minister of Militia and Defence

The functions of the minister of Militia and Defence are of a twofold character. Like his colleagues, he presides over a department of the civil service, which department is charged with the civil administration of the militia affairs of the Dominion, including the fortifications, ordnance, arms, stores and munitions of war, as well as the initiative in all matters involving the expenditure of money for militia purposes. In

the execution of this office he is assisted by a deputy minister and the requisite equipment of technical officers and clerks.

In respect of the military administration, the minister is advised by a council styled the Militia Council, appointed by the governor-general in council. This council is composed of four military members, the chief of the general staff, the adjutant-general, the quartermaster-general, the master-general of the ordnance; and two civil members in addition to the minister—the deputy minister of Militia, and the accountant and paymaster-general of the department. The minister is the chairman of this council, the deputy minister the vice-president, and the assistant deputy minister the secretary.

The chief of the general staff, as first military member, is required to advise on questions of general military policy, of the organization for active service, and of military defence. The training of military forces, education of officers, intelligence, telegraphing and signalling are also among his special duties. He is assisted by three staff officers, a director of military training, a director of military operations and staff duties, and a director of musketry.

The adjutant-general is responsible for all questions of military administration. All appointments, promotions, retirements, honours and rewards are made upon his recommendation. He sees that all orders to the militia are properly issued and distributed, and that discipline is maintained throughout the service. He has charge of the military arrangements connected with the Royal Military College, and, through the director-general of medical services, of all medical and sanitary questions. Matters of ceremonial and discipline come under his supervision.

The medical services are specially organized under a director-general as a division of the adjutant-general's branch, and there are also two assistant adjutants-general.

The quartermaster-general has charge of the organization, administration and technical training of all transports, the remount, railway supply, barrack, ordnance and veterinary services. He is assisted by two staff officers—the director of

clothing and equipment, who is also the principal ordnance officer, and the director of transport and supplies.

The master-general of the ordnance is specially charged with the maintenance of fortifications, artillery and rifle ranges, and the construction of lesser military buildings (not exceeding $15,000 in cost). He decides upon the patterns, provisions and inspection of guns, small arms and ammunition, and of all artillery, engine stores and vehicles. He also has two staff officers under him, the director of artillery and the director of engineer service.

The presence of the deputy head and of the accountant and paymaster-general of the department on the Militia Council establishes a point of contact between the civil and military divisions of the service, and exercises a restraining influence in regard to the important questions of public expenditure. The Militia Council meets once a week. The system closely follows that in operation in the mother country. As in the case of the Army Council, the Militia Council has succeeded to the duties formerly discharged by the commander-in-chief, or, as the corresponding officer in Canada was styled, the general officer commanding the militia, with the exception of executive command, which has passed into the hands of the officers in charge of commands and districts, who are directly responsible to the council. To ensure that the council's orders are carried out, there is an officer known as the inspector-general, whose duty it is periodically to inspect the military forces of the country, and to see that everything is conducted in accordance with instructions. To assist the inspector-general in the performance of these duties are six inspectors—of cavalry, artillery, engineers, army service corps, medical service and ordnance service respectively.

The civil administration of the department at Ottawa consists of the deputy head, the assistant deputy minister, the accountant and paymaster-general, the director of contracts, the secretary of the department, eighty-four inspectors, surveyors, draughtsmen and clerks.

MICROCOPY RESOLUTION TEST CHART

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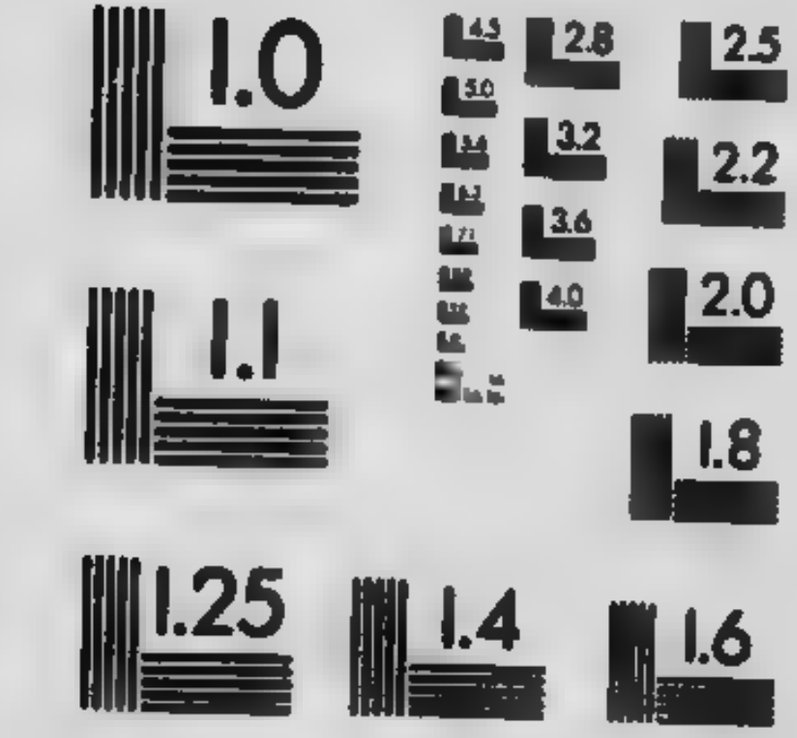

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The Minister of Inland Revenue

The principal functions of the department over which the minister of Inland Revenue presides are to collect the duties of excise, which are levied chiefly on spirits, malt, beer, tobacco, cigars, cigarettes, snuff, vinegar and acetic acid. Every distiller, maltster, brewer, and tobacco or cigar manufacturer is obliged, before beginning business as such, to procure a licence for that purpose from the minister of Inland Revenue. The licence is granted at the discretion of the minister, and after the conditions prescribed by the act are complied with. These licences run for one year, and are subject to suspension or forfeiture by the minister for cause. Illicit distillation, and other infractions of the inland revenue laws, are punishable by fine and imprisonment, and sometimes by both, the penalty usually being severe. The outside service of the department of Inland Revenue is manned by district inspectors, collectors, deputy collectors, excisemen, and so forth, stationed at places where excise licences are granted. Duties of excise are fixed by the Inland Revenue Act. They are distinct from those levied under the customs tariff, and are much less subject to change.

Weights and measures are regulated by the minister of Inland Revenue under a special act. The Dominion standards of length and weight and the metric standards are kept in this department, which also has the duty of certifying all meters used for the measurement of electrical energy. Every inspector of weights and measures is furnished with one or more sets of standards, called local standards, carefully verified and authenticated by comparison with the departmental standards. With these are compared the weights, measures, balances and weighing machines used for purposes of trade, which are regularly inspected, and when found correct stamped or branded by the inspector. Appropriate penalties are provided for the use of false or unjust weights. The metric system is legally optional in Canada, though as a matter of fact it is not employed in commerce or the affairs of ordinary life, its use being confined to scientific purposes.

Besides excise and weights and measures, the department of Inland Revenue administers acts relating to a great variety of subjects, among which may be mentioned those relating to gas and electric light inspection, adulteration of food, agricultural fertilizers, commercial feeding stuffs, proprietary medicines, petroleum inspection and the exportation of electrical energy.

The staff of the department at Ottawa consists of the deputy minister, the secretary, the chief electrical engineer, the chief inspector of gas, the chief inspector of weights and measures, the chief analyst and about sixty officers and clerks. The portfolio of Inland Revenue was abolished in 1892, and the office of controller of Inland Revenue substituted therefor, under circumstances precisely similar to those already explained in the case of the department of Customs. Like that of Customs, the department of Inland Revenue was revived in 1897.

The Royal North-West Mounted Police

The Royal North-West Mounted Police is a constabulary force, formed shortly after the acquisition by Canada of the North-West Territories. Its work was to be the establishment of friendly relations with the Indians and the maintenance of law and order in the vast regions stretching from Winnipeg to the summit of the Rocky Mountains.

In the year 1873 Sir John Macdonald, at that time prime minister and minister of Justice, took the first steps towards the creation of this body, which he attached to his own department. Shortly afterwards his government went out of office, and the organization of the Mounted Police was completed under Alexander Mackenzie, the force remaining under the control of the minister of Justice until 1876, when it was transferred to the secretary of state. Upon the return of Sir John Macdonald to office in 1878, he, holding that the control of this force should always appertain to the prime minister, again took it with him, first to the department of the Interior, then to the Privy Council, and lastly to the department of Railways and Canals. Such also was the policy

of Sir Wilfrid Laurier, who retained the force under his control, and the Hon. R. L. Borden, on assuming office in 1911, maintained the tradition.

At the time of the organization of the force, what now forms the Provinces of Manitoba, Alberta and Saskatchewan was an almost unbroken solitude, save for the Hudson Bay trading posts and the trappers and Indians who roamed to and fro throughout the land. Shortly after this date civilization, recently planted in Manitoba, began to encroach on the wilderness, and treaties were made with the Indians. The building of the Canadian Pacific Railway rendered access comparatively easy, and before long the tide of settlement began to flow, bringing with it the usual quota of wild and lawless spirits that hang on the outskirts of civilization. It was in those days that the Mounted Police demonstrated their usefulness in protecting the peaceable settler on his homestead, and the Indian on his reserve, in sternly repressing all forms of disorder, and in making white man and Indian realize that go where they would they were not beyond the strong arm of the law. While thus useful in promoting order and security among all races, their presence was indispensable to the control of the Indians, who could only be effectively restrained by a display of authority.

Before the introduction of railways, the sphere of action of the Mounted Police was completely isolated from the rest of the Dominion. Means of communication were painfully irregular and slow, and those in command of the force had frequently to face occasions which called for the exercise of the greatest delicacy of judgment. That the Mounted Police acquitted themselves in the performance of their arduous and singularly varied duties with remarkable success is acknowledged by all who have a practical knowledge of early days in the North-West. So necessary were they felt to be that, when in 1905 Alberta and Saskatchewan were created autonomous provinces, it was mutually agreed between the Dominion and the new provinces that the Mounted Police should continue to exercise jurisdiction, as a force under the control of the Dominion government, for a period of five years—an arrangement which, for public

convenience, was later renewed for a further period of five years.

The original strength of the force was 300 officers and men. This number was increased to 500 in 1882, and to 1000 in 1885. Reductions have been made since 1885, and the authorized strength in 1911 was 700.

The departmental head of the Mounted Police force, under the prime minister, bears the title of comptroller, and is the deputy head of the department. Lieutenant-Colonel Frederick White has filled this office practically from the creation of the force, and his unwearied labours to maintain the high efficiency of this remarkably fine body of men have been recognized and appreciated by successive administrations. He is aided in his work by an assistant comptroller and a staff of clerks. The commanding officer is styled the commissioner, and under him in 1911 were 2 assistant commissioners, 12 superintendents, 33 inspectors and 5 surgeons. The headquarters of the Royal North-West Mounted Police Force are at Regina, with 10 divisional posts scattered throughout the North-West, and about 175 smaller detachments. In 1903 His late Majesty King Edward VII granted to the Mounted Police the privilege of using the prefix 'Royal.' Lord Minto, for six years governor-general of Canada, and more recently viceroy of India, is honorary commissioner of the force.

The Minister of Labour

In the year 1900 parliament passed a statute (63-64 Vict. cap. 24), known as the Conciliation Act, to aid in the prevention of industrial disputes, and to provide for the publication of statistical industrial information. The administration of this act was vested by order-in-council in the postmaster-general, who was empowered by parliament to 'establish and have charge of a department of Labour.' Under this authority a department was organized, and in a short time demonstrated its usefulness by successfully meeting the conditions it was created to serve; so much so that in 1909 (8-9 Edw. VII, cap. 22) a cabinet portfolio was constituted and filled by the

appointment of W. L. Mackenzie King, who had occupied the position of deputy head of the department, and who affords the only instance in Canada of promotion of a deputy minister to cabinet rank. The staff of the department of Labour consists of a deputy minister, who is the editor of the *Labour Gazette* (a publication in the interests of the industrial classes issued weekly from the department) and also registrar of the Board of Conciliation and Labour, together with an assistant deputy minister, and about sixteen technical officers and clerks.

In 1906 the Conciliation Act and the Railway Disputes Act were amalgamated and became the Act respecting Conciliation and Labour (R. S. C., cap. 96), which was placed under the administration of the minister of Labour, as was also the Industrial Disputes Investigation Act of 1907. Subsequently the minister was charged with the direction of the Combines Investigation Act passed in 1910 (9-10 Edw. VII, cap. 9).

The attitude of the department of Labour towards both parties to industrial disputes is essentially that of an inquirer, or in some cases that of a mediator. As soon as a strike is reported in the press or by correspondence of the department, an official communicates with each side—with the employers, and with the representatives of the men—asking information as to the cause of the trouble, the number of men concerned, and any other particulars that may be available; the department then keeps in touch with the parties by inquiries from time to time until the dispute is ended, full particulars as to duration and settlement being reported. If a strike is of large dimensions, the department sometimes sends a representative to the spot in order to investigate the matter, so that the minister may be fully informed on the subject. Under the Conciliation and Labour Act, if one party to a dispute makes application to the minister, a conciliator may be appointed who will endeavour to bring about a settlement. The deputy minister of Labour has frequently acted in the capacity of conciliator.

Under the Industrial Disputes Investigation Act, 1907, a distinction is drawn between disputes affecting coal mines

and public utility industries (railways of all kinds, shipping, telephones and telegraphs, gas and electric works), and in other industries. In the first-named class the Industrial Disputes Investigation Act 1907 provides that before a strike or lock-out may take place the dispute shall be made a matter of investigation before a Board of Conciliation and Investigation appointed under the act. Either party may apply to the minister of Labour for a board. These boards consist of three members, one appointed on the recommendation of the employer, one on the recommendation of the employees, and the third on the recommendation of the other two. It is the duty of this board to endeavour to bring about a friendly settlement of the dispute, and for purposes of getting at the facts it is clothed with all necessary powers. Should either party refuse or fail to nominate a member of the board, the minister may appoint one in the place of the refusing or defaulting party, and, if the member so chosen fails to elect a third member, the minister must make such selection. Thus in certain contingencies the minister makes two appointments out of three. The board's first duty is conciliation and then investigation, and in the event of no definite agreement being reached it becomes the duty of the board to make a report to the minister, containing recommendations as to the manner of settlement. The department requests from the two parties a statement as to their attitude respectively on these recommendations. In the event of the recommendations being accepted by each party, what amounts to an agreement is reached. In the event of either side refusing to accept the recommendations, the prohibition of strike or lock-out is removed.

Although the Industrial Disputes Investigation Act, 1907, applies directly only in the case of coal mining and public utility industries (as above set forth), and prohibits strikes and lock-outs in these industries pending inquiry before a board, the act permits the use of its machinery in the case of other industrial disputes, provided in these cases the consent of *both* parties is obtained. The department has frequently had occasion to approach the respective parties, explaining the law and acting as a medium

of negotiations, leading frequently to a solution of all differences.

It may be added that since the enactment of the Industrial Disputes Investigation Act, 1907, the machinery of the earlier Act (Conciliation and Labour) has not been called largely into requisition, probably because of the above-stated feature of the Industrial Disputes Investigation Act.

The Deputy Ministers

From what has gone before, it may readily be inferred that the deputy heads of departments play an important part in the administration of the country's affairs. Upon them falls in great measure the responsibility of carrying on the business of the executive government. The busy minister, with his manifold duties towards the crown, his colleagues, parliament, his constituents, and the public at large, must perforce leave the greater part of the business of his department to his deputy, who brings to the task the knowledge and experience which his permanent position enables him to acquire. Governments come and go. Even in the same administration changes occur with more or less frequency, but the deputy minister remains, to render to successive ministers that loyal assistance and support which they have a right to expect, and without which departmental administration could not be successfully carried on. Taking no part in politics, the deputy head regards himself as a trustee for the ministry of the day, bound to serve the government in all things so far as he properly can. He is of course bound by a higher sanction to refuse to do, or acquiesce in the doing of, anything contrary to law, or anything which, though not technically illegal, may be opposed to his sense of propriety. He may also state to his minister his objections to a course which, while not comprised within either of these categories, he may conceive to be injurious to the public interest, and acquaint him with his views of the consequence of a proposed line of action; but having done this much, his duty is clear. He is in office to carry out the policy of the head of the department, upon whom rests the responsibility for all his official acts.

The deputy head is a member of the civil service appointed by the governor in council and holds office during pleasure. He is not, as some suppose, a semi-minister, for he occupies no advisory relation towards the crown, nor does he possess any representative character, being merely the deputy of his minister. This distinction was more clearly recognized in the early years of Confederation than at the present day. The statutes establishing the principal departments and constituting the office of deputy head, invariably and with design, speak of that officer as the 'deputy *of the* minister,' and such continued to be the rule until a comparatively recent period, when the title of 'deputy minister' began to supplant the older form. However, there has not been any corresponding change in the status of the deputy heads, who occupy the same relation towards the heads of the public departments as they did in the beginning.

Occasionally a suggestion is tentatively put forward as to the advisability of introducing into Canada the English system of parliamentary under-secretaries, who, though members of the administration, are in a real sense 'deputy ministers' in that, while possessing seats in parliament and a certain responsibility of their own, they are subordinate in their official capacity to the members of the cabinet. The advantages of this plan are chiefly experienced in parliament, where the under-secretary in replying to questions, in explaining policy, and in defending the acts of the government, affords much aid to the responsible minister. In Canada it would be equally effective in these respects, and, in addition, would relieve the minister of a mass of work connected with politics and patronage which absorbs much of his time, and from which the imperial cabinet minister is relatively free.

In England a cabinet minister is so hedged about with forms as to be almost unapproachable. An interview with him can be secured only upon the presentation of suitable letters of introduction, and after divers conferences with one or more private secretaries. By this means the minister has leisure to devote adequate time to the consideration of the affairs of state. In democratic Canada a different order of things prevails. Cabinet ministers are quite unprotected.

Every free and independent elector considers that he has a right to interview even the first minister, upon all manner of irrelevant topics, at any hour of the day or in any place, without notice or warning of any kind, and he considers himself much aggrieved when occasionally intercepted by the vigilance of a private secretary in the act of forcing his way into the ministerial presence.

That parliamentary under-secretaries would relieve Canadian cabinet ministers individually from much labour and many annoyances, both inside and outside parliament, is probable. Whether the plan would conduce to the more effective working of the public departments is open to question, and it is also problematical to what extent a Canadian minister could safely emulate the exclusiveness of his imperial prototype.

Private Secretaries to Ministers

It is the undoubted right of a cabinet minister to choose his own secretary, either from within or without the ranks of the service, as he may elect. The importance of the office depends largely upon the aptitudes of the incumbent, and the personal relations existing between him and his chief. A practical knowledge of shorthand and typewriting is nowadays essential. With this equipment a private secretary can conduct the mechanical part of correspondence, but if that be the limit of his usefulness, he falls far short of the requirements of the office and of what his minister has a right to expect of him.

No position is so completely what the holder chooses to make it as that of private secretary to a minister of the crown. If he is content to act as an amanuensis only, with one eye on the clock, an amanuensis he will remain till the end of his days. If, on the contrary, he displays an intelligent interest in his work; if, ignoring hours and disregarding his own personal convenience, he is always at his post, 'never in the way and never out of the way,' as Charles II used to say of the Earl of Godolphin; if he is assiduous in the performance of his duties; if he thinks for his minister and is

ever on the alert to anticipate his wishes; if he is prudent, tactful, faithful and discreet, he can make himself indispensable to his chief, and at the same time lay up a store of knowledge and experience that will stand him in good stead some day.

The above is true of all private secretaries, but doubly so in the case of the private secretary to the prime minister, who holds one of the most honorous and responsible posts in the public service. So well is this recognized in England that the office is eagerly sought as the gate to high preferment.

The Library of Parliament

The parliamentary library is under the management of joint librarians, one styled the general librarian and the other the parliamentary librarian, who report direct to parliament, at the beginning of every session, on the state of the library. There is also a joint committee of both houses on the library, while the executive control over the staff appertains by custom to the prime minister. Each librarian enjoys the rank and salary of a deputy head.

The parliamentary library is what its name imports—a library for the use of members of parliament and of the public service. It is not primarily intended to serve the purposes of a public library for the citizens of Ottawa, though during the parliamentary recess the residents of the capital incidentally enjoy the advantages which it confers.

The library building was originally intended to hold 120,000 volumes, but by some miscalculation the actual shelf room never exceeded provision for 75,000. When it is considered that there are at the present time (1912) 400,000 books within its walls, some idea may be formed of its congested condition.

The Civil Service Commission

In the year following Confederation, the governor in council appointed the first of what was destined to be a series of royal commissions, to inquire into the state and require-

ments of the civil service. This commission submitted, in due course, a scheme for the reconstitution of the service, which was adopted, and for eleven years, so far as the inside service was concerned, formed the basis of its organization.

In those days appointments to the service were quite frankly political, no test of fitness being required. When a vacancy occurred, the minister nominated a friend for the position, and he was appointed as a matter of course. It is right to add, however, that even at that early period there were several redeeming features in the administration of the public service. In the first place, the tenure was virtually permanent. Canada has never been cursed with the barbarous system, long in vogue in the United States, under which every public servant, no matter how diligent, faithful and competent he might be, was turned out of office at each change of government. So long as a man behaved himself and abstained from interference in politics, in the Canadian service he has always been secure. Then again, while political influence was a potent factor in securing admission to the service, once in, promotion, generally speaking, went according to merit, or at any rate was not influenced by political considerations. Now and then there might have been an exception to this rule, but still the rule held good.

A commission appointed in 1880 reported strongly against the then existing mode of appointment, and urged that Canada should follow the example of the mother country by instituting a system of open competition to govern entrance into the service, with promotion by merit. To this end they recommended placing the service under a board of civil service commissioners. The time was not felt to be opportune for the adoption of this plan in its entirety, but an act was passed in 1882 (45 Vict. cap. 4) reorganizing the service and providing for the establishment of a Board of Examiners whose duty it should be to examine all candidates for admission thereto, and to give certificates of qualification to those who successfully passed the prescribed tests. This board was appointed in the summer of 1882, and for twenty-five years discharged its functions until superseded by the present Civil Service Commission.

The establishment of an educational qualification was no doubt an improvement upon prevailing conditions, and during the earlier years of its existence the board rendered a service to ministers of the crown in intervening between them and applicants for office. The relief thus afforded, however, was but temporary. The examinations were easy. They were not competitive, and with the lapse of time the list of qualified aspirants grew apace, until almost every person became eligible, and things were as before.

Still, successive governments shrank from effecting any organic change, and, beyond occasionally amending the Civil Service Act and appointing fresh commissions of inquiry every ten or twelve years, did nothing. One of these bodies, created in 1892, renewed the recommendations of its predecessor for the appointment of a permanent commission to regulate the service, but with no material result. Indeed, things kept getting worse, for the periodical amendments made to the act were for the most part designed to meet particular circumstances as they arose, and, so long as the special occasion was served thereby, slight regard appears to have been paid to the effect of the amendments upon the symmetry of the act as a whole. So incongruities multiplied. At length, forty years after the first steps had been taken to improve the service, the government resolved upon a radical reform. In 1907 it entrusted to another royal commission the task of instituting a thorough inquiry into the working of the whole system. The commissioners went fully into the question, and in a report which caused some stir at the time, discussed the subject from many points of view. They unsparingly condemned the exercise of political influence in the matter of appointments; found fault with the existing classification; pointed out that the salaries were inadequate; and advocated the restoration of the superannuation system, with added provision for the support of the widows and orphans of deceased civil servants. Placing a wide interpretation upon their instructions, they went on to criticize the administration of the public departments in regard to matters of policy.

Their exhaustive report appeared in the early part of

1908, and the same session saw an act placed on the statute book of far-reaching importance to the service. By this act the government divested itself of the ordinary exercise of its power of appointment to the civil service, and entrusted it to a commission consisting of two members appointed by the governor in council, but removable only on an address of the Senate and House of Commons. With certain exceptions, the system of competitive examination was established for the filling of all positions in the inside service below that of deputy head. These examinations are held at stated intervals, under regulations of the commission approved by the governor in council. Before holding such examination the commission is furnished by each department with a list of permanent officers and clerks likely to be required within the next six months. On this basis the commission computes the number of competitors to be selected at the next ensuing examination, placing any remaining over from the last examination who have not received appointments at the head of the list. Thereupon the commission advertises, and otherwise gives notice of the examinations, stating the character and number of the positions to be competed for. When a department has need of the service of a clerk, the deputy head, with the approval of his minister, applies to the commission, which selects from the list of successful competitors a suitable person for the required duty. These selections are, as far as practicable, in the order of merit, but latitude is given to the commission permitting it in certain cases to appoint the person who has shown special qualifications for the position to be filled. The commission forthwith notifies the Treasury Board and the auditor-general of the name and position in the service of each clerk supplied to any department. The head of a department, on a report in writing of the deputy head, has the right to reject any clerk supplied by the commission within six months, at the expiration of which period he is deemed to have been permanently accepted.

The civil service is divided by the act of 1908 into two main divisions, the inside service and the outside service. The jurisdiction of the commission is confined to the inside

service, save as regards the holding of examinations for the outside service, which it is empowered to do by an order-in-council transferring to it the work of the old Board of Civil Service Examiners.

The inside service, under the deputy heads, is divided into three divisions, each of which has two subdivisions. Subdivision A of the first division consists of the officers having the rank of deputy heads but not being deputy heads, assistant deputy ministers, and the principal technical administrative and executive officers. Subdivision B consists of chief officers of lesser importance than those forming subdivision A.

The second division consists of those clerks having duties of the same character, but of lesser importance than those of the first division. This division also has two similar subdivisions.

The third division consists of those whose duties are copying and routine work under direct supervision. It also is divided into subdivisions A and B.

Promotions, other than from the third to the second division, continue to be made by the governor in council, upon the recommendation of the head of the department, based on a report in writing from the deputy head, but they require in addition a certificate of qualification from the commission to be given with or without examination as the commission may determine.

The Civil Service Commission has now (1912) been in operation for four years, not an extended period when viewed absolutely, yet long enough to form an opinion as to the result of what at its inception was looked upon by many as a venture. While the change may have operated to the disadvantage of individuals here and there, and while modifications in the act and regulations may be necessary from time to time, there can be little doubt that the experiment has proved on the whole successful.

The removal of the service from the political domain, besides being beneficial both to politics and to the service itself, has proved an immense boon to ministers of the crown and private members of parliament in lightening the burden

of patronage. In addition to these advantages, the examinations have set a higher standard of efficiency, and supplied a better class of young men and women than were secured under the old system. Under the skilful guidance of the commission there has been on the whole surprisingly little friction, and the public departments have fallen almost imperceptibly into the new order, perhaps the best test of the success of which is to be found in the fact that no one in authority would voluntarily revert to the old conditions of affairs.

The Commission of Conservation

The movement for the conservation of the natural resources of the Dominion had its origin in a joint conference of the representatives of the United States, Mexico, Canada and Newfoundland, which, on the invitation of the president of the United States, met at Washington in the early part of the year 1909 to consider the whole question from a continental point of view, wholly apart from political or national divisions. This North American Conference recommended the establishment of permanent conservation commissions in each of the countries represented thereat. The Canadian government, realizing the great importance of the project, gave it their hearty support by effecting the passage of the necessary legislation, and making suitable provision for the carrying on of the work.

The Canadian commission is composed of 32 members —12 *ex officio*, and 20 nominated by the governor in council. The *ex officio* members are the ministers of Agriculture, the Interior, and Mines, in the Dominion cabinet, and the members of each provincial government in Canada charged with the administration of the natural resources of that province. Of the nominated members, at least one in each province must be a member of a faculty of a university within such province. The president and secretary are likewise appointed by the governor in council.

In the constitution of this commission much care seems to have been taken to make it thoroughly representative of those classes and interests in the country most concerned

in the success of the movement, and best qualified to deal with the various problems which it presents. Men versed in administration, both in the Dominion and provincial spheres, others distinguished for their scientific attainments, and those who have achieved success in various forms of business enterprise, are here brought together to combine their varied knowledge and experience in the great work of effectively utilizing and conserving for succeeding generations the vast resources of the Dominion.

The functions of the commission are inquisitorial and advisory only. It possesses no executive or administrative powers. Its duty is to investigate the large questions with which it is called upon to deal, to collect and assimilate the information so secured, and to report the result of its labours to the government, with whom rests the responsibility of action.

The able and exhaustive address of the Hon. Clifford Sifton, chairman of the commission, delivered on the occasion of the first annual meeting held at Ottawa on January 18, 1910, set forth with great clearness the aim and objects of the commission. The chairman's staff consists of the secretary, the editor and assistant secretary, a draughtsman and two clerks. The necessary reports to the governor in council in relation to the affairs of the commission are made by the minister of Agriculture.

The International Joint Commission

On June 13, 1902, the president of the United States approved an act of Congress providing for the appointment of an international commission of six members, three representing the interests of Canada and three from the United States, to investigate and report upon the conditions and uses of the waters adjacent to the boundary line between the United States and Canada. This invitation was accepted on the part of Canada, and in December 1903 William Frederick King was appointed as one of the Canadian members of such body, which was known as the International Waterways Commission. In January 1905 James Pitt Mabee and Louis Coste, C.E., were named to act in conjunc-

tion with King, and on May 20 following Mabee was appointed chairman of the Canadian section of the commission, with Thomas Coté as secretary. Coté acted as secretary to the full commission up to the appointment by the United States government, on August 1, 1905, of L. C. Sabin as secretary of the United States section. The United States members of the commission were appointed on October 2, 1903. They were Colonel O. H. Ernst, corps of engineers United States Army, George Clinton, attorney-at-law of Buffalo, New York, and Professor Gardner S. Williams of Ithaca, New York. The Canadian section held its first meetings at Ottawa on March 6 and 7, 1905.

Among the subjects they were directed by the government of Canada to consider were :

1. The proposed diversion southward by the Minnesota Canal and Power Company of Duluth, of certain waters in the State of Minnesota, that now flow north into the Rainy River and the Lake of the Woods.
2. The diversion about a mile and a half east of the town of Sault Ste Marie of part of the waters of the St Marys River into the Hay Canal entirely through American territory. The River St Marys now forms part of the boundary between the United States and Canada, and the waters of the river are clearly international. The Canadian vessels of necessity are using the Hay Canal, but no treaty has been made concerning their right.
3. Inquiry into the effect on the levels of Lakes Huron and Erie of the construction of the Chicago Canal.
4. The building of the dam and other obstructions on the St John River, flowing through the State of Maine into New Brunswick, contrary to the express stipulation of the Ashburton Treaty.

The United States section held its first meeting at Washington on May 10, 1905, and completed its organization by electing Colonel Ernst as chairman.

It was soon seen that the United States government placed a much narrower construction upon the act of Congress authorizing the appointment of the commission than that applied to it by the government of Canada, which held that

the scope of its powers covered all waters adjacent to the boundaries of the two countries. The United States, on the other hand, understood the inquiries of the commission to be limited to the waters of the Great Lakes only. Upon their persistence in this view, the Canadian government yielded the point and the narrower construction prevailed. On May 25, 1905, the full commission held its first meeting at Washington. At this meeting Colonel Ernst was elected chairman, it being agreed that at meetings of the full commission held on United States territory the chairman of the United States section should preside, and at meetings held on Canadian territory the chairman of the Canadian section should preside. It was decided that for the present the offices of the Canadian section should be established in Toronto, and those of the United States section in Buffalo. Subsequently the Canadian section decided to establish its permanent quarters in Ottawa. At later meetings various questions were discussed from time to time, among them being :

A. The uses of the waters at Sault Ste Marie for power purposes, and the regulations necessary to ensure an equitable division of the waters between the two countries and the protection of the navigation interests.

B. The uses of the waters of the Niagara River for power purposes, and the regulations necessary to ensure an equitable division of the waters between the two countries and the protection of Niagara Falls as a scenic spectacle.

C. The alleged differences in the marine regulations of the two countries with respect to signal lights, and the advisability of adopting uniform signals for both countries.

D. The advisability of building controlling works at the outlet of Lake Erie, including the effect upon the levels of the Lakes and upon their shores, and upon the River St Lawrence.

E. The diversion southward by the Minnesota Canal and Power Company of Duluth, of certain waters in the State of Minnesota that now flow north into the Rainy River and the Lake of the Woods.

F. The effect of the Chicago Drainage Canal upon the levels of Lakes Michigan, Huron, Erie and Ontario, and upon the River St Lawrence.

G. Delimiting the international boundary on the international waterways, and delineating the same on modern charts.

H. The suppression or abatement of illegal fishing on the Great Lakes.

I. The location and construction of common channels.

J. Regulations to govern navigation in narrow channels.

K. Protection of shores from damage due to deepening of channels and increased speed.

L. The transmission of electric energy generated in Canada, to the United States, and vice versa.

Towards the close of 1905 J. P. Mabee, having been appointed to the Ontario bench, resigned his position as chairman of the Canadian section, and George C. Gibbons, K.C., of London, Ontario, was appointed in his stead. In March 1907 W. F. King resigned from the commission and was succeeded by William J. Stewart, chief engineer of the Hydrographic Survey of Canada.

On April 11, 1908, Great Britain and the United States concluded a treaty respecting the demarcation of the international boundary between the United States and Canada. For the purposes of this treaty the boundary is divided into eight sections: (1) Through Passamaquoddy Bay; (2) from the mouth to the source of the St Croix River; (3) from the source of the St Croix to the St Lawrence River; (4) from its intersection with the St Lawrence River to Pigeon River; (5) from the mouth of Pigeon River to the north-westernmost point of the Lake of the Woods; (6) from the north-westernmost point of the Lake of the Woods to the summit of the Rocky Mountains; (7) from the summit of the Rocky Mountains to the Gulf of Georgia; (8) from the 49th parallel to the Pacific Ocean.

These divisions are dealt with for the most part by special commissions appointed for the purpose, but Article IV of the treaty charges the existing Waterways Commission to ascertain and re-establish accurately that portion of the boundary line between St Regis and Pigeon River, that is to say, from its intersection with the St Lawrence River, through the Great Lakes to the western shore of Lake Superior. This work is still in progress.

Meanwhile informal negotiations had been going on looking to the creation of a new commission with enlarged powers for dealing with all international questions of water rights on the frontier between the United States and Canada. These negotiations finally resulted in the treaty of January 11, 1909, establishing the present International Joint Commission, which is clothed with authority to deal not merely with boundary waters, but also with 'all questions which are now pending between the United States and the Dominion of Canada, involving the rights, obligations or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise.' This treaty was approved by the parliament of Canada on May 19, 1911 (1-2 Geo. v, cap. 28). Articles VII and X respectively provide that:

Article VII

The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada composed of six Commissioners, three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

Article X

Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada, either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor-General in Council. In each case so referred, the said Commission is authorized to examine into and report upon the facts and circumstances of the particular ques-

tions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided, or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an Umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague Convention for the pacific settlement of international disputes, dated the 18th October, 1907. Such Umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

The British commissioners appointed by His Majesty on November 10, 1911, under Article VII were Thomas Chase Casgrain, Henry Absalom Powell and Charles Alexander Magrath. The United States section, appointed in the preceding March, consisted of Thomas Henry Carter, James Tawney and Frank Sherwin Streeter. On the death of Carter, the Hon. George Turner was appointed to fill the vacancy.

In January 1912 the first meeting of the full commission was held in Washington, at which certain rules of procedure were adopted. It was agreed that regular sessions of the commissioners should be held annually at Washington beginning on the first Tuesday of April, and at Ottawa beginning the first Tuesday of October. L. J. Burpee and L. White Busbey were appointed secretaries of the British and American sections respectively.

This body, known as the International Joint Commission, has superseded the old International Waterways

Commission, which is now *functus officio* save as respects the laying down of the boundary through the Great Lakes, with which duty it was especially charged by the treaty of April 11, 1908, and upon which it is still engaged.

The High Commissioner

In the year 1879 certain members of the Canadian ministry then in England represented, in a confidential memorandum addressed to the secretary of state for the Colonies, the need which existed of providing the means of constant and confidential communication 'between Her Majesty's Government and Her local advisers in Canada in extension of the more formal relations subsisting through the correspondence of the Secretary of State for the Colonies with the Governor-General.' The memorandum went on to observe that

> it appears to the Canadian Government eminently desirable to provide for the fullest and most frank interchange of views with Her Majesty's Government, and for the thorough appreciation of the policy of Canada on all points of general interest. Otherwise there appears to be danger of a feeling growing up of indifference, if not of actual antagonism and irritation upon both sides. The idea must be avoided that the connection of Canada with the British Empire is only temporary and unabiding, instead of being designed to strengthen and confirm the maintenance of British influence and power.
>
> It is now being found in practice that there are constantly questions arising, connected with the administration of affairs in Canada, requiring discussions in a mode, and to an extent wholly impracticable by the ordinary channel of correspondence through the Governor-General; and periodical visits have to be made to London for this purpose by the important members of the Canadian Government, entailing serious inconvenience.

Her Majesty's government having returned a sympathetic answer, an act was passed in the following session of the Canadian parliament, constituting the office of high commissioner for Canada in the United Kingdom. His duties were thus defined:

(1) To act as representative and resident Agent of the Dominion in the United Kingdom, and in that capacity to execute such powers and to perform such duties as may from time to time be conferred upon and assigned to him by the Governor in Council;

(2) To take the charge, supervision and control of the Immigration offices and agencies in the United Kingdom, under the Minister of Agriculture;

(3) To carry out such instructions as he may from time to time receive from the Governor in Council respecting the commercial, financial and general interests of the Dominion in the United Kingdom and elsewhere.

A few days after this statute received the royal assent, Sir Alexander Galt was appointed high commissioner. He held the position until May 31, 1883, when Sir Charles Tupper, at that time a member of Sir John Macdonald's cabinet, was appointed to perform the duties of the office without salary, thus enabling him to retain his portfolio of Railways and Canals and his seat in the House of Commons. On May 23, 1884, Sir Charles withdrew from the Canadian government, and on the following day was appointed high commissioner in the usual manner. In January 1887 he resigned this office to re-enter the cabinet, this time as minister of Finance. He remained in the ministry until May 1888, when he returned to the high commissionership, which he held until January 1896, when he was called to be prime minister of the Dominion. Sir Charles was succeeded in the high commissionership by Lord Strathcona and Mount Royal.

The Agent of Canada in Paris

In the year 1882 the Hon. Hector Fabre, at that time a member of the Senate, having been selected by the government of the Province of Quebec to reside in Paris in order to promote their financial, commercial and other interests, the government of Canada commissioned him to act in a similar capacity as agent for the Dominion. Instructions furnished the agent on October 3, 1882, thus defined his duties:

'To spread information in France and on the continent of Europe regarding Canada, its resources and its advantages

as a field for emigration. That he will also solicit the attention of the capitalists of France to the minerals, timber and fish products of Canada and the promise which they offer in return for their development.'

The agent is directed to conform to any instructions which he may receive from the high commissioner for Canada in London regarding steps to be taken to improve the commercial relations between France and Canada, and to report monthly to the secretary of state the efforts which he may have made to carry out the duties entrusted to him.

Fabre continued to act as agent of the Canadian government in Paris until his death in 1910. His successor was also drawn from the Senate in the person of the Hon. Philippe Roy, who on May 1, 1911, was appointed 'Commissaire Général du Canada en France,' without, however, any change in the status enjoyed, or functions discharged by, his predecessor.

The Supreme Court

The Supreme Court of Canada was constituted in the year 1875 by act of the parliament of Canada 38 Vict. cap. 2. It consists of a chief justice styled the chief justice of Canada, and five puisne judges, of whom at least two must be from the Quebec bench or bar. Five judges form a quorum, but if both parties consent to a hearing before four judges, such hearing may take place. Should the full court be evenly divided on a case, the judgment of the court below stands.

The Supreme Court possesses an appellate civil and criminal jurisdiction throughout the Dominion, but no appeal is permitted in a criminal case except as is provided in the criminal code. In civil cases an appeal lies to the Supreme Court from the highest court of final resort in each province, subject to certain conditions which are set out in chapter 139 of the revised statutes of Canada. The rules of practice of the Supreme Court are printed in volume 38 of the Supreme Court reports.

The judgments of the Supreme Court are declared by the organic statute to be final and conclusive in all cases, saving the royal prerogative, which means that no appeal from the

court's decisions can be carried to England except by leave of the Judicial Committee of the Privy Council. Leave to appeal is sought by petition addressed to His Majesty the king in council. Such petitions must be accompanied by duly authenticated documents embodying the judgments of the Supreme Court which is appealed from, and the factums in the case. Leave to appeal is not as a rule granted unless the amount at issue is considerable, or some important principle is involved. Admiralty cases coming from the Supreme Court by way of appeal from the Court of Exchequer may in turn be appealed to the Judicial Committee of the Privy Council, without specific permission from that tribunal.

Important questions of law or fact touching any matter may be referred by the governor in council to the Supreme Court for hearing and consideration, and the opinion of the court upon any such reference, although advisory only, is, for all purposes of appeal to His Majesty in council, treated as a final judgment of the court between parties.

The Senate and House of Commons may also refer to the Supreme Court, or to any two judges thereof, for examination and report, questions relating to private bill legislation in either house. Advantage is, however, seldom taken of this provision.

The act constituting and establishing the Supreme Court (38 Vict. cap. 2) was, by proclamation dated September 17, 1875, declared to be in force from and after September 18, 1875, as regards the appointments of judges and officers of the court, the organization thereof, and the making of general rules and orders. The other provisions of this act and the judicial functions of the Supreme Court were by proclamation, dated January 10, 1876, made operative from January 11, 1876.

The Exchequer Court

The act of the parliament of Canada (38 Vict. cap. 2) establishing a Supreme Court likewise created the Court of Exchequer. It enacted that

> the Exchequer Court shall have and possess concurrent original jurisdiction in the Dominion of Canada, in all

cases in which it shall be sought to enforce any law of the Dominion of Canada relating to the revenue, including actions, suits and proceedings, by way of information, to enforce penalties and proceedings, by way of information *in rem*, as well as in *qui tam* suits for penalties or forfeitures as where the suit is on behalf of the Crown alone; and the said Court shall have exclusive original jurisdiction in all cases in which demand shall be made or relief sought in respect of any matter which might in England be the subject of a suit or action in the Court of Exchequer on its revenue side against the Crown or any officer of the Crown.

By section 59 the Exchequer Court was given concurrent original jurisdiction with the courts of the several provinces 'in all other suits of a civil nature at common law or equity, in which the Crown in the interest of the Dominion of Canada is plaintiff or petitioner.' Section 4 provides that the chief justice and judges of the Supreme Court of Canada should be respectively the chief justice and judges of the Exchequer Court of Canada. In the year 1887 a statute was passed (50-51 Vict. cap. 16) by which the chief justice and judges of the Supreme Court ceased to be judges of the Exchequer Court, and provision was made for the appointment of a single judge with the title of judge of the Exchequer Court. By this act the jurisdiction of the court was materially enlarged. In cases when the amount in controversy exceeds $500 an appeal lies from a judgment of the Exchequer Court to the Supreme Court of Canada as a matter of course, and thence to the Judicial Committee of the Privy Council. In certain other cases, not directly involving monetary considerations, an appeal may be allowed by a judge of the Supreme Court.

Prior to 1891 the various vice-admiralty courts throughout Canada were imperial tribunals, the judges holding their commissions directly from the crown. In that year an act of the imperial parliament known as the Admiralty Act, 1891, created the Exchequer Court of Canada a Colonial Court of Admiralty within Canada, and invested it with all the jurisdiction, powers and authority conferred by the Colonial Courts of Admiralty Act of the United Kingdom.

Power was given to the governor-general in council to constitute Admiralty districts in Canada, and to appoint local judges in admiralty for such districts.

In interlocutory matters there is an appeal from the local judge in admiralty only to the judge of the Exchequer Court. In final cases an appeal lies either to the Exchequer Court or to the Supreme Court. In the event of the appeal being first taken to the judge of the Exchequer Court, there is a further appeal to the Supreme Court.

By warrant dated August 17, 1899, addressed by the lords commissioners of the Admiralty to the Exchequer Court of Canada, the said court, upon any proclamation being made by the vice-admiral for the time being of Canada, that war has broken out between His Majesty and any foreign state, and not otherwise, is authorized and required to take cognizance of, and judicially to proceed upon all captures, recaptures, seizures, prizes and reprisals of all ships, vessels and goods seized and taken, and which are or shall be brought within the limits of the said court. The lords commissioners of the Admiralty suggested Halifax and Victoria as places within the jurisdiction of the court at which it would be convenient for prize courts to sit. In the session of 1912 an act amending the Exchequer Court Act was passed, authorizing the governor in council to appoint an assistant judge of the Exchequer Court. This office was filled on April 4, 1912.

In this rapid survey of the administrative government of Canada one fact stands out with marked distinctness—the pre-eminence of the prime minister, alike in the councils of his sovereign, in the deliberations of parliament, and in the management of his party. The rise and growth of this office affords a most interesting study. Sir Robert Walpole is generally regarded as the first British statesman to whom the title was applied, but so far from the office being generally recognized in his day, the charge that he arrogated to himself a pre-eminence over his colleagues formed one of the counts against him in his last great struggle for power:

When Walpole fell (in 1741), Sandys, in the course of

his indictment, said : 'According to our Constitution we have no sole or Prime Minister ; we ought always to have several Prime Ministers or officers of State ; every such officer has his own proper department, and no officer ought to meddle in the affairs belonging to the department of another !' At the same time a protest was signed in the House of Lords to this effect : 'We are persuaded that a sole or even a first Minister is an officer unknown to the law of Britain, inconsistent with the constitution of this country, and destructive of liberty in any country whatever.' [1]

Walpole himself repudiated the title with derision : 'Having first,' he says of his opponent, 'conferred upon me a kind of mock dignity and styled me the prime minister, they carry on the fiction which has once heated their imaginations, and impute to me an unpardonable abuse of that chimerical authority which only they have thought it necessary to bestow.' Yet from his time onward the office has been a living reality, ever increasing in influence and engrossing power, until it has become the dominant factor in the government of England, and of those representative institutions to which that government has given birth.

It has been observed, with some degree of warrant, that in its essential features the form of government which Canada enjoys is not so far removed from that of the United States as at first sight may appear. In the United States the executive power is committed by the people to one man for four years. In Canada the governance of the people is in effect entrusted by their representatives to one man for an indefinite period. One nation styles its ruler the president, the other the prime minister. Stripped of ceremonial forms and phrases, such is, with certain qualifications, the broad fact. Of course, like most analogies, this one must not be pressed too far. Canada is not a sovereign power. Her prime minister's jurisdiction is therefore circumscribed, and extends in its plenitude only over the domestic concerns of the Dominion. Nor do his electors disperse

[1] *George II and his Ministers*, by Reginald Lucas, pp. 74-5. The same author says of Chatham ; 'The title of Prime Minister he always repudiated, both in public and private life' (*op. cit.*, p. 353).

after casting their votes. They retain their corporate authority intact, exercise a vigilant supervision over the administration of public affairs, and may at any time revoke their mandate. On the other hand the prime minister possesses, in the power of dissolution, a weapon which he can sometimes effectively employ to strengthen his position, while under responsible government the influence of the crown is ever present to moderate the violence of opposing factions, and to serve as a perpetual reminder to our public men that there is a higher allegiance than that of party. In this admirable system of checks and balances the true excellence of the Canadian form of government is to be found.

Joseph Pope

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